2003
Electoral Reform Commission
Report

Prince Edward Island

104-02291/

Prince Edward Island

Prince Edward Island
Commissioner of Electoral Reform

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December 18, 2003

The Honourable Patrick Binns
Premier of Prince Edward Island
Premier's Office
Shaw Building, 5th Floor South
95 Rochford Street
Charlottetown, P.E.I.
C1A 7N8

Dear Mr. Premier:

Re: 2003 Electoral Reform Commission Report

In January, 2003, you invited me to act as a one person Commission on Electoral Reform in Prince Edward Island.

The Commission has now completed its work and I am pleased to present to you the Report of the Commission.

Sincerely,

Norman H. Carruthers
Commissioner
/emc

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2003

PRINCE EDWARD ISLAND

ELECTORAL REFORM COMMISSION

REPORT

The Honourable Norman H. Carruthers
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Daniel Gallant
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ACKNOWLEDGMENTS

The 2003 Electoral Reform Commission is extremely grateful to everyone who has contributed to the work of the Commission. It takes this opportunity to extend its thanks and appreciation to those members of the General Public who attended the public meetings. Your interest and support was greatly appreciated. A very special thank you is extended to all who took the time to submit written submissions and to those who made presentations and oral submissions at the public meetings. The Commission realizes that it takes time, energy and dedication to prepare and present these presentations and submissions and it is very grateful for your contribution to the success of the meetings. Your input has enabled the Commission to catch the mood of the general public as to the direction Electoral Reform should take in this Province.

Thanks is also extended to the Audio Visual Branch of the Provincial Treasury for their assistance at the public meetings.

The Commission also extends its most sincere thanks and appreciation to Elections P.E.I. for all the advice, assistance, information and courtesies it received from Merrill Wigginton, Chief Electoral Officer, Lowell Croken, Deputy Chief Electoral Officer and Norma Palmer, Elections Officer. Your professionalism and insights kept the work of the Commission focused and helped to bring a complicated and difficult task to a conclusion.

The Island media provided a great service to both the Commission and to the general public by their interest, assistance and co-operation. The Commission expresses a very sincere thank you to the media representatives for their efforts which were appreciated very much indeed.

The Commission also wishes to acknowledge all the assistance it received from Jeannie Lea, Chairperson of Every Vote Counts in this Province. Her knowledge and enthusiasm were greatly appreciated.

Thanks and appreciation are also extended to Ellen Connolly for all her efforts in providing secretarial assistance to the Commission.

The work of the Commission would not have been possible without the dedicated support and assistance of Daniel Gallant, Research Assistant to the Commission. His untiring efforts in research and in checking information and detail have made this Report as complete as possible and the Commission expresses very sincere thanks to him.

EXECUTIVE SUMMARY

A Discussion Paper from the Law Commission of Canada on Reviewing Democracy: Debating Electoral Reform in Canada, reminds everyone that we cannot be complacent about the quality of our democratic institutions as democracy, like a good garden, requires constant tending. We must continue to ask how we can improve our democratic institutions and practices? One institution which is receiving more attention and discussion every day is the present Electoral System used in Canada and, in particular, in the Province of Prince Edward Island. More and more people are suggesting that our present system of voting no longer reflects today's political landscape and a new canvass needs to be painted using hues which reflect today's realities.

The 2003 Electoral Reform Commission has attempted to engage Islanders in a discussion about their present voting system, commonly called First Past The Post, in an effort to determine whether there is an alternative system which may be better suited for the needs of the 21st Century.

Everyone realizes that times do change but not everyone realizes that the status quo is not always the best solution for problems which confront the daily lives of individuals. One of today's most cherished possessions in countries which have a democratic form of government is the secret ballot. Today the secret ballot is taken for granted by everyone, even though it took much courage, debate and perseverance to have it introduced into the Electoral System many years ago. An article which appeared in The London Times Newspaper on May 28, 1862, illustrates the struggle to win the secret ballot. Someone has written in recent times that the article complained about the amount of parliamentary time being wasted each year on what was called a "crazy old question". The article went on to say

that the question would probably continue to furnish an annual subject for an eccentric member to dilate upon but the idea that a Bill would pass the House of Commons on the question enters into the mind of no one. The so called "crazy old question" was nothing more than the secret ballot. However, the "crazy old question" soon became a reality of life for the electorate as ten years later, in 1872, a Bill did pass the House of Commons in Britain and the secret ballot became law.

The Commission does not believe that the introduction of an element of proportionality into our electoral system can be called, like the secret ballot, a crazy idea or question. Rather, it is of the view that changing, or indeed modernizing, the system is of considerable importance to both electors and prospective electors. The Commission, however, is mindful that more public debate is required before the issue is decided in a province wide referendum.

Finally, the Commission's research into alternative electoral systems and the history of the electoral system in this Province has exposed a few significant trends which everyone should keep in mind as they read this Report.

- The political history of Prince Edward Island is characterized by a single theme: change.
- Change in everything from the name of the Island, Isle St. Jean, Island of St. John, Prince Edward Island.
- Who governs, a British Governor or an Independent Government.
- Who can vote, males only, women, property owners, non-property owners, persons of Aboriginal descent.
- How we vote, by a public show of hands or by secret ballot.
- When we vote, as elections held on different days in each county or the same day in all counties.

- The number of representatives elected in local districts has varied over the years from two to one as has the number of Houses in the Legislature.
- While the First Past The Post System has been in use here since the very first election, it is rarely used in other mature democracies, particularly those which have gained independence since 1947.
- The Canadian Charter of Rights and Freedoms has had, and will continue to have, a significant impact on Canadian and Island politics. Decisions rendered by the British Columbia Supreme Court, The Supreme Court of Canada and the Prince Edward Island Supreme Court all outline principles which simply cannot be disregarded in the future.
- Finally, the mandate of this Commission corresponds to what is happening in other Canadian provinces such as British Columbia, Quebec, New Brunswick and Ontario.

CHAPTER 1

THE 2003
ELECTORAL REFORM COMMISSION

THE COMMISSION

The 2003 Prince Edward Island Commission on Electoral Reform was established by Premier Patrick Binns in January, 2003. It was established in response to the commitment given by the Government in the Speech from the Throne on the occasion of the opening of the 4th Session, 61st General Assembly, on November 14, 2002.

The Throne Speech stated, in part:

> Electoral Reform
>
> The most important and fundamental right of our democracy is the franchise. It is incumbent upon political leadership to ensure that the way in which we elect our representatives continues to be relevant and effective. Therefore, My Government will appoint an independent commission to consult on and consider Prince Edward Island's electoral system and accompanying statute and regulations so that it continues to reflect what Islanders require of their legislature.

COMMISSIONER

Premier Binns appointed The Honourable Norman H. Carruthers, Retired Chief Justice of the Province, as the sole Commissioner to lead an impartial debate about the issues involved in Electoral Reform in the Province.

Commissioner Carruthers employed the services of Daniel Gallant as Research Assistant to the Commission. Mr. Gallant had just completed his Masters' Degree at Dalhousie University in Political Science. He had prepared a thesis on Electoral Reform in Prince Edward Island which advanced a particular model for reform, and his background knowledge was of great assistance to the Commissioner.

MANDATE

The mandate of the Commission was outlined in a letter dated February 24, 2003 from Premier Binns to Commissioner Carruthers. The letter directs the Commission to undertake the following:

- a review of all statutes and associated regulations respecting the manner in which the Members of the Legislative Assembly are elected in the Province;

- to consider the impact which District boundary changes, based on population shifts, may have for rural communities; and

- to determine the relevance of an alternative electoral system, such as proportional representation, for Prince Edward Island.

PROCESS

The Commission soon realized that it had been assigned a very challenging responsibility. One which required a lot of research to familiarize itself with the evolution of the Electoral System used in this Province since it became a separate British colony in 1769.

It was also necessary to research and analyze the major electoral systems found around the world in order to understand each type of system and their positive and negative effects. The Commission also undertook a review of the Court decisions which impact on Electoral Reform.

One source of great assistance to this Commission has been the work carried out in this Province by previous Commissions and Committees of the Legislature on Electoral Reform. The Commission acknowledges, in particular, the following four reports:

1. The Report of The Royal Commission on Electoral Reform dated March 1962, Chaired by His Honour J. S. DesRoches, Judge of the County Court of Kings County.

2. The Report of The Electoral Boundaries Committee dated April 16, 1975, Chaired by Edward Clark, M.L.A. and the Report of the Sub-Committee Co-Chaired by Edward Clark, M.L.A. and the Honourable Lloyd G. MacPhail, M.L.A.

3. The Report of The Election Act and Electoral Boundaries Commission dated March 1, 1994, Chaired by Lynwood MacPherson, M.L.A.

4. The Report of The Special Committee on The Election Act dated April 24, 2001, Chaired by Jim Bagnall, M.L.A.

The Commission also acknowledges the work done in the area of Electoral Reform by J. Andrew Cousins. Mr. Cousins prepared a discussion paper on Electoral Reform for Prince Edward Island dated October, 2000, while he was associated with The Institute of Island Studies at the University of Prince Edward Island.

Another example of fine work in this area is the Report on Proportional Representation prepared by Elections Prince Edward Island and presented to the Honourable Mildred Dover, Speaker of the Legislative Assembly of Prince Edward Island in April, 2002, by Chief Electoral Officer, Merrill H. Wigginton. The Report deals with the diversity of Electoral Systems found around the world, the advantages and disadvantages of our system as compared with Proportional Systems, and sets forth three possible scenarios for Prince Edward Island.

That the Commission had been established, its mandate, office location, phone numbers, e-mail address and website address were all brought to the public's attention by advertisements in the Island newspapers. Submissions were invited from everyone interested in the project. The Commission received thirty-six written submissions. (A list of these submissions can be found at Appendix A).

The Commission also acknowledges the assistance provided by the local media as they informed the public about the existence and work of the Commission.

The Commission then prepared a discussion paper on the major electoral systems found around the world and developed four models for discussion purposes. Copies

of this discussion paper were distributed to everyone who attended the public meetings and copies were also made available through Island Information Services.

The Commission proceeded to hold a series of seven public meetings across the Province during May and June, 2003, in an effort to engage the public in a discussion about the merits of the present electoral system and how it compares with the other major electoral systems in use around the world. The Commission was very conscious of the fact that a balanced perspective was important at these meetings so both sides of the argument were always presented in such a manner as to raise questions and stimulate discussion.

These public meetings were held in Charlottetown, Summerside, Elmsdale, Montague, Hunter River, Souris and Abrams Village. Simultaneous French/English translation was provided at the meeting in Abrams Village. The following table provides some factual information about these meetings.

Date	Location	Attendance	Presentors	Submissions
May 26, 2003	Charlottetown, PEI	80	Jeannie Lea	Leo Broderick, Council of Canadians
			Dr. Ed MacDonald	J'Nan Brown, Fair Vote Canada
				Colonel Gray PEI History Class
				Patricia MacAulay, PEI Status of Women
				Harry Baglole
				Dr. Peter Hay Tasmania
May 27, 2003	Summerside, PEI	17	Jeannie Lea	Jeremy Stiles, Malpeque Green Party

Date	Location	Attendance	Presentors	Submissions
			Dr. Ed MacDonald	Nick Boragina, NDP Youth
				Dr. Peter Hay, Tasmania
				J'Nan Brown, Fair Vote Canada
June 10, 2003	Elmsdale, P.E.I.	21	Jeannie Lea	Dr. George Dewar
			Daniel Gallant	Dr. Herb Dickieson
				Reg Pendergast
				Matt McGuire
				MLA Cletus Dunn
				Dr. George Dewar
				MLA Eva Rodgerson
				J'Nan Brown
June 16, 2003	Montague, P.E.I.	24	Dr. Richard Price	Mary Boyd
			Dr. Bud Ings	Edith Perry
				Kais Deelstra
				MLA Wilbur MacDonald
				Gary Robichaud
				MLA Jim Bagnall
June 18, 2003	Hunter River, P.E.I.	16	Wayne MacKinnon	Stanley Campbell and Mitch Tweel, Federation of Municipalities
			Dr. Richard Price	Ryan O'Connor
				Robert MacKenzie

Date	Location	Attendance	Presentors	Submissions
				Andrew Wells
				J'Nan Brown
June 23, 2003	Souris, P.E.I.	11	Albert Fogarty	Leo Cheverie, PEI Federation of Labour
			Dr. Richard Price	Donalda MacDonald, CUPE
				Hon. George Mullally
				Ken Anderson
				J'Nan Brown
June 25, 2003	Abrams Village, PEI	12	Gilles Arsenault	Robert Arsenault, Acadian Communities Advisory Committee
			Alcide Bernard	Lizanne Thorne, St. Thomas Aquinas Society
				J'Nan Brown
				MLA Wilfred Arsenault
				Edgar Arsenault

Approximately one hundred and eighty-one people attended these seven public meetings. Even though the attendance level left much to be desired, there was a great exchange of ideas at all of these meetings. The people who did attend were very interested and participated in each question and answer session. Several oral submissions were made at each meeting as well. (A complete list of the submissions received by the Commission can be found at Appendix A.)

The Commission also had the opportunity to discuss the many issues involved with numerous individuals and group representatives who, for one reason or another, have an interest in Electoral Reform. (A list of the names of these individuals can be found at

Appendix B.)

The Commissioner also spoke to each of the six Rotary Clubs in Prince Edward Island with a total attendance of approximately 280 Rotarians and guests. A presentation was also made to approximately twenty students at a Political Studies Class at the University of Prince Edward Island and to approximately twenty members of the Royal Edward Chapter of the I.O.D.E.

The public aspect of the Commission's work came to a close with the final public meeting on November 20, 2003, in Charlottetown. The meeting was well attended with approximately seventy-five people in attendance. President Wade MacLauchlan of the University of Prince Edward Island acted as Moderator and also spoke about Electoral Reform. The other two principal speakers were Dr. Tom Connor of Charlottetown, Prince Edward Island and Patrick Boyer from Toronto, Ontario. Dr. Connor spoke in favour of keeping the present First Past The Post Electoral System with changes to make the whole political system more responsive to the needs of the public. Patrick Boyer, who has worked as a lawyer specializing in communications and electoral law, spoke about reform and the necessity to upgrade the First Past The Post System to keep it in step with current expectations.

The attendance and the number of questions from the audience indicates the increasing interest the public has in Electoral Reform in this Province. The questions asked at this final meeting also indicate that the public is much more aware of the issues involved in the discussion than they were when the Commission began its work in early 2003.

A questionnaire was circulated to the attendees at all eight public meetings and there was about a fifty percent return rate. The great majority of the returns support change

and the majority of these favour some form of Proportional Representation to ensure that the Legislative Assembly is more representative of the way people actually vote on Election Day.

CHAPTER 2

HISTORICAL REVIEW

Historians constantly remind us that we must have an appreciation of the past in order for us to be able to chart the future. The Commission will, therefore, attempt to provide in this Chapter a brief sketch of the development and growth of the electoral system in this Province since it became a separate colony in 1769.

The first inhabitants of Prince Edward Island were the Aboriginal people who had been here many years before Jacques Cartier, the first recorded European to visit the Island, glimpsed the beauty of the Island shoreline in 1534. The Aboriginal people had named the Island "Abegweit" and this name apparently continued until the early sixteen hundreds when the Island became known as "Isle St. Jean".

Following the Treaty of Utrecht in 1713, the importance of Isle St. Jean was recognized for the well being of neighbouring Louisbourg and the first major settlement on the Island occurred in 1720. The first census of the Island was taken in 1728 and a total of 298 people were listed along with 125 itinerant fishermen.

During this period in history, the colonies were often traded back and forth between the British and the French as part of the Treaties concluding various wars throughout the world. It was not until 1763, by the Treaty of Paris, that Isle St. Jean became a British Colony and formed part of Nova Scotia. It was also during this period that the Island's name was changed, once again, when it became known as the Island of Saint John. In 1769, the Island became a separate British colony and began its own system of government under the leadership of its first British Governor, Walter Paterson. Governor Paterson received his Commission and Instructions from King George III on August 4, 1769.

He arrived on the Island in 1770 and soon thereafter commenced the task of constituting a Council of twelve persons to advise and assist him in the administration of the affairs of government.

The first appointments to the Council were set out in the Instructions given to Governor Paterson. These people were: Thomas Desbrisay, Lieutenant Governor of the Island; The Chief Justice of the Island; William Allanbey and David Higgins. Governor Paterson was given the authority to chose the remaining appointments from the principal inhabitants and proprietors of land on the Island. Dr. Father Francis W. P. Bolger states in his book, Canada's Smallest Province, at page 46, that Governor Paterson's first appointments to the Council were: Mr. Phillips Callbeck, Mr. Thomas Wright, Mr. John Russel Spence and Mr. Patrick Fergus.

In 1773, the Legislature for the Colony was constituted. It consisted of an Upper House and a Lower House. The Lower House was commonly referred to as the House of Assembly. The first House of Assembly was elected on July 4, 1773, and the first meeting of the Assembly opened on July 7, 1773. The following description as to how the members of the first House of Assembly were elected was provided by A. B. Warburton in his book A History of Prince Edward Island, at page 175:

House of Assembly

> A time had now arrived when the Governor concluded that it would be practicable to establish a House of Assembly. In a dispatch of 17th February, 1773, to Lord Dartmouth, he said that the increase of inhabitants during the previous summer enabled him to call a House of Representatives, as in the manner resolved upon by Council, namely, "by taking the voices of the whole people collectively, as belonging to one county, and waiving all kinds of qualifications, except their being

> Protestants and residents: it is impossible to have any other terms, owing to the unequal distribution of the inhabitants over the Island, and the small number of freeholders there are among them."

Lorne C. Callbeck states in his book, The Cradle of Confederation, that the following members attended that first session: Archin, Graves; Budd, John; Burns, George; Coffin, Elisha; Coffin, Nathaniel; Craig, William; Farquor, Alexander; Fletcher, Alexander; Hawthorn, James; Hopkins, Thomas; Lawson, David; Lawson, John; Lawson, William; Lord, John; MacCallum, James; Stewart, Dugald; Stewart, Robert; and Warren, William.

These eighteen members of the first House of Assembly were elected from an Island wide list as there were no Districts or parties as exist today. A list of candidates was prepared and the eligible voters, being only men at the time, went to Charlottetown to vote on election day. The eighteen men receiving the most votes were declared elected.

The Upper House was commonly referred to as the Legislative Council. It was the Council which Governor Paterson formed in 1770. The Council had a dual role. It acted as the Legislative Council or Upper House when the Legislature met and it also acted as the Executive Council advising and assisting the Governor in his duties. The membership of the Legislative Council was basically the same as the Executive Council until 1784 when the number of members of the Executive Council was reduced to nine and the Legislative Council remained at twelve. The appointments to the Executive Council and the Legislative Council were usually life appointments and these appointments may well be seen as the start of patronage in Island politics.

In 1774, Governor Paterson called another election in the hope that a better House of Assembly would be chosen, as several qualified settlers had arrived from overseas.

The election was held on October 1, 1774, and the newly elected House of Assembly sat from October 4 to November 7, 1774. It was during this Assembly that the first piece of legislation governing elections on the Island of Saint John was passed.

The 1774 Council minutes record that An Act to Prevent the Non-Attendance of Members to Serve in General Assembly was approved by the Legislative Council and the House of Assembly. This Act established the first ground rules of the electoral process in the colony. In particular, Governor Paterson was responsible for issuing the Writ of Election as well as deciding the method of electing the members of the House of Assembly. Essentially, the practices followed in Great Britain were adopted by the colony. By 1775, the machinery of government was fairly well in place even though the population was very small. The various administrators vied for prestige and authority and trouble soon developed.

Dr. Frank MacKinnon at page 16 of his book, The Government of Prince Edward Island, describes what conditions were like in 1775:

> The tiny government had scarcely commenced when it disintegrated in the period 1775 - 85. The Governor went to England in 1775 on a year's leave of absence which lasted for five years. The American Revolution was in progress and shortly after his departure, a group of Americans raided Charlottetown and kidnapped Phillips Callbeck, the Attorney-General, who was then administering the government, and kept him from his post until 1776. Chief Justice Duport died in January, 1776; the Provost Marshall and Collector of Revenue was away for four years; the Lieutenant-Governor who had been appointed in 1769, had not yet arrived; and the Council and the Assembly were not functioning because of absenteeism and lack of salaries.

The situation was exacerbated by the fact that there was basically no money

available to carry out the functions of government. The many demands on the Imperial government for adequate financial resources led it to rethink its original decision to separate the Island from Nova Scotia. In 1784, the Island was reunited with Nova Scotia and Governor Paterson's status was reduced to Lieutenant Governor. He was eventually dismissed from his position in 1787 and was succeeded by Governor Fanning.

Between 1779 and 1787, elections were held as follows:

July 1, 1779

March 1784

March 1785

July 1787

There does not appear to be a great deal of information available about the early electoral system on the Island, however, the following excerpt from the Council minutes of 1787 does shed some light on the voting process during the July 1787 election:

> [The Council]...thought it was advisable to direct that the Sheriff should be requested to hold a Poll at the three most inhabited places on the Island, viz., at Charlottetown, Princetown and St. Peters, beginning with Princetown and ending in Charlottetown. That the Poll shall be advertised to be held in Princetown on the 28th [of March], at St. Peters on the 2nd [of April], and at Charlottetown on the 5th of July next, and that the Sheriff be further required to give public notice of such Election at the several places above mentioned as well as at other [places] at least twenty days before his taking of the Poll at any of these places, and that in all Notices for each of the said places the time of holding at the others be mentioned, that the inhabitants might attend at the places which should be most convenient....

Following the election in July, 1787, Governor Fanning set up a new system of ridings whereby each County elected six members. Two were elected from the Capital Town of each county and four from the countryside of each county. A new election was then held in August 1787 under this new system. This system remained in effect until after the 1834 election.

Two lists of eligible candidates competed for election during the August 1787 election, namely, the Richmond Bay List and Fletcher's List. It would appear that these two Lists were the precursors of the modern day political parties.

The Council minutes record the results of the 1787 election in the words of the Sheriff who administered the election:

> I took the Poll in Princetown on the day commanded [by the Governor] where two lists of Candidates were offered to serve in General Assembly. The poll taken in Princetown gave 45 votes to the Richmond Bay List, and 15 votes to Fletcher's List. Then in St. Peters the Poll was taken and the Richmond Bay List received 72 votes, while Fletcher's List received 45 votes. In Charlottetown the result was in favour of Fletcher's List, where with 182 votes they commanded a majority of 69 votes.

The results of the August 1787 election were as follows:

NAME *	DATE ELECTED	PARTY
Anderson, Peter	August 1, 1787	Fletcher List
Berry, Walter	August 1, 1787	Richmond Bay List
Callbeck, Phillips	August 1, 1787	Fletcher List

Campbell, James	August 1, 1787	Fletcher List
Clark, John	August 1, 1787	Fletcher List
Fletcher, Alexander	August 1, 1787	Fletcher List
Fox, Robert	August 1, 1787	Fletcher List
Lawson, William	August 1, 1787	Fletcher List
Mainwaring, Edward	August 1 , 1787	Richmond Bay List
Nicholson, Ebenezer	August 1, 1787	Fletcher List
Rogers, William	August 1, 1787	Richmond Bay List
Smyth, Alexander	August 1, 1787	Richmond Bay List
Stewart, Charles	August 1, 1787	Richmond Bay List
Stewart, John	August 1, 1787	Fletcher List
Throckmorton, John	August 1, 1787	Fletcher List
Webster, John	August 1, 1787	Fletcher List

* There appears to be two names missing.

The next election was held on March 1, 1790, and Governor Fanning liked the elected members so much he let them remain in office for 12 years before he called another election. Several by-elections were held during this period.

Subsequent elections were held on:

December 1, 1802

July 1, 1806

August 1, 1812

November 3, 1818

July 25, 1820

December 1, 1824

November 10, 1830

December 29, 1834

Some of the major developments which took place during this period include:

1799 - The name of the Island was changed to Prince Edward Island;

1803 - The first Election Act was passed regarding elections to the House of Assembly;

1830 - The right to vote was extended to Catholic males.

In 1836, An Act to Consolidate and Amend the Election Laws was enacted. This Act basically formalized the past informal practices. This Act provided for the election of six members from each County to the House of Assembly with four being from the rural areas of each County and two from each County Capital.

More changes occurred in 1838 when an Act was enacted entitled An Act to Alter and Amend An Act Passed [in 1836] entitled An Act to Consolidate and Amend the Election Laws. This Act divided each County into four, dual member electoral districts, thereby increasing the total number of members of the House of Assembly from 18 to 24. There were two winning candidates from each district under this system.

At this time in history, the House of Assembly had very little power as a result of the system of government which was then in place. The Governor was advised by the Executive Council which consisted of appointed Councillors who were not responsible to the House of Assembly. Over time, the House of Assembly challenged the system for more control and a struggle developed between the House of Assembly, on the one hand, and the

Governor and the Executive and Legislative Councils on the other hand. This struggle developed in the 1830's. One of the first major steps forward was the separation of the Legislative Council from the Executive Council in 1839. This separation made it possible to appoint members of the House of Assembly to the Executive Council. The struggle for further reforms continued in the 1840's and the people who fought for change were known as the Reformers. Their efforts eventually led to the grant of Responsible Government in 1851.

In 1851 Governor Bannerman was instructed to implement Responsible Government and the Honourable George Coles became the first Premier of Prince Edward Island. He was the leader of the Reformers who had the most seats in the House of Assembly. He then appointed his colleagues in the Assembly to the Executive Council or what is know today as the Cabinet. It took some time to get things resolved as the Governor was not inclined to give up the powers he had previously exercised.

In 1856 the first comprehensive Act regulating the election process passed the House of Assembly. It increased the number of members from 24 to 30 with 10 members elected from each County. There were four dual ridings in each County and each County Capital elected two members as well. These 30 members of the House of Assembly were elected on a franchise that had evolved over the years to the point of an almost universal adult male vote.

In 1859 the Legislative Council increased in membership from twelve to seventeen.

In 1861 another Act was passed which amended the 1856 Election Act. This Act replaced Princetown with Summerside as the Capital Town of Prince County.

Summerside then became the fifth electoral district of Prince County and the old town of Princetown was added to the third electoral district of Prince County. This Act also placed qualifications on electors.

In 1862 significant changes were made to the Legislative Council such that the members were no longer appointed but were elected instead. The Counties were divided into two dual member districts each and Charlottetown was made a separate electoral district with just one member. This arrangement provided for the election of thirteen Legislative Councillors and they were elected by males 21 years of age and older who owned a freehold or leasehold property, or a combination of the two, with a value of at least 100 pounds currency. This was the beginning of what was known as the property vote for the Legislative Councillors, a practice which continued until 1964.

In 1864 the now famous Charlottetown Conference was held and Prince Edward Island eventually joined Confederation in 1873.

One important issue in Island politics during this period of history was the land question which arose as a result of the Absentee Landlords. Many settlers were unable to obtain title to their land and were forced to pay rent to the Absentee Landlords. As a result, the Land Purchase Act was passed in 1875 and many tenants became landowners. These new landowners were very conscious of their new status and of the importance of property rights for which they had struggled to accomplish. They were not interested in having the property vote abolished as they argued they had a greater stake in political affairs than the non-property owners.

In 1877 legislation was passed which introduced the secret ballot to the Island. This legislation also provided for the compilation of a voters' list and polling procedures.

The secret ballot did not last very long as the expense associated with it made the practice unpopular. It was abolished in 1879 and was not restored for provincial elections until 1913.

Legislation was promised in 1879 to abolish the Legislative Council as it was too expensive to maintain all the legislative machinery which existed prior to the Island joining Confederation in 1873. A great debate then ensued between the property owners and the non-property owners. A solution was not achieved until 1893 when, in the words of Marlene Clark, author of Chapter Twelve of Dr. Bolger's book, Canada's Smallest Province, a compromise was born.

The compromise saw the abolition of both the Legislative Council and the House of Assembly and the creation of a new Legislative Assembly which was a combination of the former two bodies. The old Legislative Council had consisted of 13 members and the House of Assembly had 30 members for a total of 43 legislators. The new Legislative Assembly was to consist of 30 members elected from five dual ridings in each County. Each dual riding would elect one Councillor and one Assemblyman. The candidates for Councillor would campaign against each other and the candidates for Assemblyman would campaign against each other as well. Thus, there would be fifteen Councillors and fifteen Assemblymen in the new Legislative Assembly. The Councillors would continue to be elected by property owners who held freehold or leasehold property of a minimum value of $325 in a district. These electors could vote for more than one Councillor if they met the property qualifications in more than one district. The franchise for Assemblyman stipulated that the elector be a male British citizen over 21 years of age and own or occupy an estate worth a yearly value of $6.00. These electors could only vote for one Assemblyman. Both the Councillors and the Assemblymen sat in the same Chamber, the Legislative Assembly, and their votes carried equal weight. This system basically remained in place until 1964 as there were only a few changes to the electoral system during this period.

One major change occurred in 1922 when women were awarded the franchise for the first time in Prince Edward Island politics.

The next major change to the Prince Edward Island Electoral System commenced in 1961 when His Honour the Lieutenant-Governor-in-Council appointed a Royal Commission on Electoral Reform to inquire into and concerning all matters relating to the election of members of the Legislative Assembly, and to make such recommendations as are deemed proper respecting such matters and to report thereon to the Lieutenant-Governor-in-Council. The Royal Commission was chaired by His Honour J. S. DesRoches, Judge of the County Court of King's County.

The Royal Commission presented its report to His Honour the Lieutenant-Governor-in-Council of Prince Edward Island in March of 1962. The report contained numerous recommendations for changes to the system then in existence. Some of these recommendations were:

- the abolition forthwith of multiple voting in Prince Edward Island;
- the property vote be retained but be exercised only once in any Election by any one qualified voter;
- the distinction between Councillor and Assemblyman be retained as essential to the two-member, two-contest constituency of this Province;
- that Prince County be represented by five, dual member districts;
- that Queen's County be represented by six, dual member districts;
- that King's County be represented by four, dual member districts;
- that no voters' list be prepared until such time as satisfactory procedure and financial arrangements can be made therefor;

- that an election officer...be appointed and be responsible to the Legislative Assembly; and

- that advance polls be provided for.

Some of the recommendations of the Royal Commission were then incorporated into a new Election Act which was passed in 1964. The new Election Act abolished the property vote for Councillors and the party affiliation of each candidate was included on the ballot. It adopted the recommendations with regard to the distribution of seats which meant that King's County was now represented by eight members instead of the usual ten. This decision caused much furor and debate and was eventually resolved by an amendment to the Election Act in 1966 which restored the "lost" district to King's County in time for the 1966 Provincial Election. This meant that there were now thirty-two members elected to the Legislative Assembly.

In 1963, the Aboriginal population on Prince Edward was given the right to vote in Provincial elections.

An Electoral Boundaries Committee and a Subcommittee of the Electoral Boundaries Committee were both established in 1974. The Electoral Boundaries Committee was chaired by MLA Edward Clark and the Subcommittee was co-chaired by MLA Edward Clark and by MLA Lloyd G. MacPhail.

The Subcommittee made several interesting recommendations including the following:

- the present sixteen provincial electoral districts be replaced by thirty-two provincial electoral districts;

- the recommended thirty-two provincial electoral districts be generally bound by the four proposed federal electoral districts;

- the present provincial electoral system of numbering by county be replaced by representative community names either singular or twofold;

- the terms Councillor and Assemblyman be abolished and replaced by the term Member of the Legislative Assembly for more proper identification;

- the proposed federal electoral constituency of Hillsborough return five representatives and that the proposed federal electoral constituencies of Egmont, Malpeque and Cardigan each return nine representatives.

This report of the Subcommittee was considered by the Electoral Boundaries Committee and it made the following recommendations:

- that dual member ridings be retained;

- that the style "Asemblyman" and "Councillor" be retained; and

- that the present constituency boundaries be rearranged to provide better geographic and population representation.

None of these recommendations were incorporated into legislation at that time and the sixteen dual member districts continued until 1994 when major change occurred in the Island's Electoral System.

In 1991 Donald MacKinnon filed an application in the Prince Edward Island Supreme Court–Trial Division seeking an Order and Declaration that Sections 147, 148, 149, 150 and 151 of the Election Act, R.S.P.E.I. 1988, c. E-1, as amended, were null and void and of no force or effect in that they were inconsistent with and contravened the Canadian Charter of Rights and Freedoms. These sections of the Election Act provided for the creation

of the sixteen electoral districts in the Province and their distribution among the three counties. Very little change had occurred in the electoral boundaries in the period from 1893 to 1994. As a result, the number of electors varied greatly from one district to another. For instance, in the 1989 Provincial Election, the district of 5th Kings had 2,042 electors and 5th Queens had 11,964, a difference of approximately 10,000 electors. This variance in the number of electors from district to district prompted Donald MacKinnon to commence the Court Application. It was the magnitude of these deviations that diluted one elector's vote as compared to another that led the Court to declare that the electoral districts in the Province violated the right to vote as guaranteed by section 3 of the Charter. Please refer to chapter 5 of this Report for a more detailed explanation of this Court case.

In 1993 the Lieutenant-Governor-in-Council appointed an Election Act and Electoral Boundaries Commission to review the provincial electoral boundaries and the distribution of representatives. The Commission was chaired by MLA Lynwood MacPherson. The Commission tabled its report in the Legislative Assembly in March 1994. It recommended many changes to the electoral map of the Province, including the following:

- that the titles Assemblyman and Councillor be abolished and that the title Member of the Legislative Assembly be the sole title used in identifying elected representatives to the Legislative Assembly;
- that Members of the Legislative Assembly be elected in single member ridings according to the traditional plurality method;
- that the Legislative Assembly consist of 30 members; and
- that the thirty provincial electoral districts be as outlined in Chapter 7 of this Report. (Report of the Electoral Boundaries Commission).

Legislation was introduced to incorporate these recommendations into the

Election Act but the debate soon came to a standstill as the proposed amendments to the Act provided for ten single member districts in Prince County, fifteen single member districts in Queens County and five single member districts in Kings County. This proposal was not acceptable to the members of Kings County. However, a compromise was reached by a private members bill which proposed 27 single member districts. Prince County was to be divided into nine districts, Queens County was to be divided into thirteen districts and Kings County was to be divided into five districts. This private member's bill was eventually passed as the Electoral Boundaries Act, S.P.E.I. 1994, c. 13 and it gave Islanders their present electoral system consisting of 27 single member districts.

The MacPherson Commission received a number of submissions which suggested that the Commission should look at Mixed Member Proportional Representation for the Province. Under such a system, a portion of the seats would be elected according to proportional representation and a portion in single member districts. The Commission deals with these suggestions in its Report and concludes on page 20 as follows:

> The adoption of mixed member proportional representation (M.M.P.R.) in this Province would represent a major departure from traditional British and Canadian electoral approaches. While there are some features of M.M.P.R. that may be commendable, its implementation in this jurisdiction would not be appropriate at this time. First, there has been little experience with M.M.P.R. within Canada. Second, there has been limited discussion among political parties and the populace about the merits of such an approach. Lastly, there are a number of important issues related to proportional representation which would require much debate. These issues include the role of political parties in selecting list candidates, the accountability of list candidates to the public and the method of apportioning seats to political parties following each election. Based on the above, the Commission concluded M.M.P.R. would not be pursued at this time.

In 2000, a resolution of the Legislative Assembly established a Special Committee on the Election Act to receive public opinion and report back to the Legislative Assembly with recommendations. This Special Committee was chaired by MLA Jim Bagnall. It reported in April, 2001, with several recommendations for changes to the Election Act.

The Special Committee received seven presentations during its hearings promoting the establishment and/or further examination of the implementation of a system of proportional representation for Prince Edward Island. The Special Committee studied this issue and agreed with the conclusions of the MacPherson Commission. It states on page 11 of its Report:

> Your Committee finds itself in agreement with the position as articulated by the Commission in 1994. Having stated this, we would be remiss if we did not recognize that there have been significant changes wouldwide since 1994 that must be contemplated. The traditional British electoral approach (first past the post or plurality) of returning members to parliament has been reviewed and revised in many jurisdictions including New Zealand, Scotland and Australia. One could hardly argue favourably that PR electoral reform in these jurisdictions has resulted in instability in government!
>
> ...
>
> In conclusion, what has been clearly demonstrated to your Committee during the course of this public hearing exercise (and through additional reading on other systems in existence) is that a comprehensive analysis of the application of PR on Prince Edward Island must be done before a reasoned determination may be made on a specific proposal. There exists too many unanswered questions at this point to recommend the implementation of a system of PR.

The Special Committee then deals with several concerns it had about Proportional Representation and concludes its Report with the following recommendation, on page 13:

> Accordingly, your Committee recommends that Elections P.E.I. commence as soon as possible a review of the systems of proportional representation presently in existence in other jurisdictions. Particular attention should be paid to jurisdictions of reasonably comparable geographic size and population to Prince Edward Island. After the conduct of this review, Elections P.E.I. would make report on its findings to the Speaker of the Legislative Assembly who would then table the report in the House for consideration of all Members. In addition, and after the report has been received and Members have had an opportunity to examine same, Islanders should be broadly consulted on a specific system or systems. This approach will ensure that Islanders have ample opportunity for meaningful input into the way in which they return Members to the Legislative Assembly to represent their interests.

Elections Prince Edward Island then prepared a Report on Proportional Representation which was presented to the Speaker of the Legislative Assembly of Prince Edward Island in April, 2002. This Report is an excellent introduction to the diversity of Electoral Systems found around the world. This Report concludes with the following recommendations on page 14:

> In conclusion, the only recommendation that Elections P.E.I. would be prepared to make is that "Any binding decisions for one system over another system should be left to a provincial referendum, preceded by an impartial campaign of public education about the issues involved in the choice."

The Report of Elections P.E.I. was followed by the commitment in the Speech from the Throne on November 14, 2002, to appoint an independent Commission to consult on and consider Prince Edward Island's electoral system.

The Honourable Patrick Binns, Premier of the Province, then appointed the 2003 Prince Edward Island Commission on Electoral Reform to engage Islanders in a discussion about the manner in which the members of the Island Legislative Assembly are elec ..

This has been a brief review of the evolution and development of the Electoral System in this Province over the past two hundred and thirty years. Such a review serves to illustrate how the Electoral System gradually changed and evolved over the years to meet the challenges of the times. It may be that Islanders are again on the threshold of updating the system so government remains responsive and accountable to Islanders through the 21st Century.

CHAPTER 3

OUR FIRST PAST THE POST ELECTORAL SYSTEM

An electoral system is the process by which people vote for individuals to represent them in the Legislature or in Parliament. It also determines how these votes are counted and how the successful candidates are chosen.

Prince Edward Island, and indeed all of Canada, uses what is commonly called The First Past the Post Electoral System. It is often referred to as The Winner Takes All System or The Single Member Plurality System. It is just one of the many different kinds of electoral systems used around the world.

The First Past The Post Electoral System (FPTP) simply means that the Candidate who gets the most votes is declared the winner even though the winner may only have a plurality of the valid votes cast, that is less than half the valid votes cast in the District. It is possible that the winner may only have one vote more than the candidate with the next highest total number of votes. Candidates may get elected with less than 40% of the total valid votes cast in the District as was the case in one District in the 1996 Provincial Election when the winning candidate won the District with 38% of the valid votes cast in the District. On the other hand, the winner may have an absolute majority, that is more than 50% of the valid votes cast in their district.

In the 1996 Provincial Election, ten of the winning candidates won their seats with less than 50% of the valid votes cast in their Districts. This number was reduced to five winning candidates in the 2000 Provincial Election and to one candidate in the recent 2003

election. In other words, these winning candidates won their District by a plurality of the valid votes. The other twenty-two winning candidates in the 2000 election won by a majority of the valid votes cast as they won their Districts by getting more than 50% of the valid votes cast. Twenty-six candidates won with a majority of the valid votes cast in the 2003 election. The candidate with the highest percentage of the valid votes cast in the 2000 election received 73.87% of the valid votes in the District while the candidate with the highest percentage of the valid votes cast in the 2003 election received 67.68% of the valid votes.

The International Idea Handbook of Electoral System Design states that FPTP is used in 70 of 211 countries around the world. These include England, Canada, India, United States, 12 Caribbean Nations, 2 Latin American Countries, 10 Asian Countries and by many of the small nations in the South Pacific as well as by those African Countries which were former British colonies. Writers point out that it is difficult to find countries in the post 1945 era that have chosen FPTP as their electoral system other than India which chose this system in 1947 when it gained its independence from Great Britain. They point out that none of the new democracies in Europe have adopted this system.

Some of the features of FPTP are:

1. It is easy to use and understand.
2. The ballot is simple. You vote for only one name on the ballot.
3. Vote counting is simple and expeditious.
4. It establishes a direct relationship between the elector and the Member of the Legislative Assembly.
5. It usually leads to a majority government.
6. It is easy to get rid of an unpopular government.
7. It favours the two-party system.

8. It generally prevents smaller third parties from winning seats.

9. It can create artificial, majority governments as the following Prince Edward Island election results indicate:

    1935, 30 - 0;

    1989, 30 - 2;

    1993, 31 - 1;

    2000, 26 - 1;

    2003, 23 - 4.

10. It under represents women and minorities.

11. It produces what many people call "wasted votes".

12. It can produce a weak opposition.

13. It tends to concentrate power in the executive branch of government.

14. It does not always produce a government in waiting.

One of the main arguments made against the FPTP System is the extent to which it has under represented women over the years in the Legislative Assemblies of the Provinces and also in the House of Commons. The FPTP System was designed and developed in an era when women did not even have the right to vote. They had to fight for the Franchise which they finally received in Prince Edward Island in 1922. They had to wait another 48 years before they saw the first woman elected to the Legislative Assembly of this Province. Jean Canfield accomplished this feat in the1970 election. In the 33 years since then only 17 more women have been elected as members of the Legislative Assembly of this Province. These women have accomplished a great deal in the last thirty-three years to open up the doors of the political process in this Province for women since 1970.

Senator Catherine Callbeck has been the only woman Premier of the Province and has the distinction of being the first woman elected Premier of any Canadian Province. She has also been elected as a Member of the House of Commons and in 1997 was appointed to the Canadian Senate.

The Honourable Marion Reid was the first woman to serve as Speaker of the Legislative Assembly in this Province and also the first woman to be appointed Lieutenant Governor of Prince Edward Island.

Leone Bagnall was first elected to the Legislative Assembly in 1979 and was the first woman MLA to have responsibility for the Status of Women in this Province. She was also the first woman Leader of the Opposition of any Canadian Province.

Patricia Mella was first elected to the Legislative Assembly of the Province in 1993. She was the first woman in the history of Prince Edward Island to have been elected leader of a political party. She was also the first woman Provincial Treasurer in the history of this Province.

There are six women members of the Legislative Assembly today and two of these are serving as Ministers of the Crown. These six women members only constitute 22 percent of the total number of members in the Legislative Assembly even though women make up 51 percent of the Island population.

The Prince Edward Island Advisory Council on the Status of Women filed a written brief with the Commission which calls for electoral reform measures that will help create real political equality for all Island women within our elected Provincial Government. The brief goes on to point out that the current "winner takes all" approach has meant that

women "take" very little. Their brief suggests that this Commission make these two recommendations on their behalf:

- Implement a system of proportional representation for the Province of Prince Edward Island that includes party lists; and

- In collaboration with individual women and equality–seeking groups, develop a complementary strategy for increased representation of women in the Legislature.

The Commission also received a written brief from the Prince Edward Island Association of Women Acadians and Francophones which urged the Commission to recommend a system which will foster an equitable representation for all Islanders.

An electoral system with an element of Proportional Representation will provide conditions for increased numbers of women in politics but such a system does not automatically mean that more women will, in fact, be elected.

These concerns of Island women have to be considered very carefully in the design and implementation of any modifications to the present First Past The Post Electoral System to ensure that changes will occur which will result in increased representation for Island women in the Legislative Assembly of Prince Edward Island.

The Commission also met with Chief Darlene Bernard, Chief of the Lennox Island Band and with Chief Roderick Gould, Chief of the Abegweit Band. The possibility of a special seat in the Legislative Assembly of this Province for the Aboriginal people was discussed with each Chief but there does not appear to be any consensus on this issue at this

time. Each First Nation has its own issues and concerns and one representative may not be the solution for this issue. However, both argued that the Aboriginal people of this Province are having more involvement with the Provincial Government now then has been the case in the past. They expressed the anticipation that a better understanding is now developing with the Provincial Government which is essential for the resolution of such contentious issues as land claims, fishing rights and economic development on reserves. Discussions should, therefore, be held with Chief Bernard and Chief Gould to ascertain their views about electoral reform.

The Aboriginal people of this Province were only given the right to vote in Provincial Elections in 1963 and there has never been an Aboriginal person elected to the Legislative Assembly of this Province. They do appear to turn out in fairly high numbers on Election Day to cast their vote even though most of their political discussions are held on the Federal level.

The following chart from the submission made by Professor John Crossley, formerly of the Department of Political Studies at the University of Prince Edward Island, to the MacPherson Commission in 1993 shows when the franchise was extended to Status Indians in Canada:

Extension of the Electoral Franchise to Status Indians	
British Columbia	1949 (1947 for those living off-reserve)
Manitoba	1952
Ontario	1954
Saskatchewan	1960
Federal	1960

New Brunswick	1963
Prince Edward Island	1963
Alberta	1965
Québec	1969
Nova Scotia	Franchise never withheld from Indians
Newfoundland	Franchise never withheld from Indians

Some people will argue that their numbers do not warrant a separate Aboriginal member. The register maintained by Indian and Northern Affairs showed a total Aboriginal population of 848 people living on Prince Edward Island in 1993 with 470 living on Reserve and 378 living off Reserve. The 1996 Census shows there was a total of 950 Aboriginal people on the Island and the 2001 Census only shows a population figure of 240 for those living on the Lennox Island Reserve. Chief Bernard indicated to the Commission that there are 350 people living on the Lennox Island Reserve and another 450 Aboriginal people living off Reserve but belonging to the Lennox Island Reserve. Chief Gould indicated that there are 300 Aboriginals belonging to the Abegweit Band and 276 of these live on Reserve. These figures suggest a total Aboriginal population of approximately 1,100 people.

It is quite possible that a referendum should be held among the Aboriginal people to determine their interest and also to determine whether the Aboriginals who live off the Reserves want to vote for an Aboriginal member or whether they would prefer to vote for their local District M.L.A.

More and more questions are being raised today as to whether this current electoral system is adequate for the 21st century or whether it requires some updating so it continues to reflect what electors require of their Legislature. Many people are writing today

about what they call the lack of fairness in the present system as they submit it often fails to fairly reflect the wishes of the electorate. This debate has been fueled by the fact that the number of seats the parties often hold in the Legislative Assembly of Prince Edward Island after an election very often has little relation to the share of the party's popular vote.

The results of the recent 2003 Provincial Election illustrates this so called "Lack of Fairness Issue":

PARTY	% OF VOTE	NO. OF SEATS	% OF SEATS
Conservatives	54% vote	23 seats	85% seats
Liberals	42.8% vote	4 seats	15% seats
N.D.P.	3.2% vote	0 seats	0% seats

These results mean that 54% of the electorate is represented in the Legislative Assembly by 23 seats and 46% of the electorate is represented by 4 seats.

The results of the 2000 Provincial Election also highlights the same issue:

PARTY	% OF VOTE	NO. OF SEATS	% OF SEATS
Conservatives	58% vote	26 seats	96.7% seats
Liberals	34% vote	1 seat	3.7% seats
N.D.P.	8% vote	0 seats	0% seats

Many people now argue that these results indicate that Islanders should look at alternative Electoral Systems to determine whether other systems would provide a more accurate mechanism for translating votes into legislative seats.

The Commission, therefore, presents in the next chapter a brief description of the major kinds of electoral systems used around the world.

CHAPTER 4

THE MAJOR ELECTORAL SYSTEMS USED AROUND THE WORLD

The major electoral systems used around the world can basically be placed into nine main systems which, in turn, can be placed in three major groups.

These three major groups are:

1. Plurality/Majority;
2. Proportional Representation; and
3. Semi-Proportional.

The following is a brief description of these three major groupings and the various systems which are included in each group. It is important to note that some writers use different names than those used here but they are in fact referring to the same systems.

1. PLURALITY/MAJORITY

A main feature of the systems under this grouping is the fact that they almost always use single member districts. There are four main systems included in this group. They are:

(a) First Past the Post (FPTP);
(b) Alternative Vote (AV);
(c) The Two Round System (TRS); and
(d) Block Vote (BV).

(a) FIRST PAST THE POST (FPTP)

This is the system which is now used in Prince Edward Island and it has been described in Chapter 3.

(b) ALTERNATIVE VOTE (AV)

The Alternative Vote System (AV) is a majoritarian system in that a candidate must receive a majority (over 50%) of the votes to be declared the winner. Electors are allowed to rank the candidates in order of their preference rather than merely choosing to vote for just one candidate. If a candidate wins an absolute majority of the votes (50% + 1), the candidate is declared the winner. If a candidate does not have an absolute majority, then they use a different method of counting the votes. The candidate with the lowest number of first preferences is dropped from the counting and his or her ballots are then checked for their second preferences. These second preferences are then assigned to the rest of the candidates and they keep doing this until someone gets an absolute majority. A candidate must have an absolute majority of all the valid votes cast in order to win the seat. A plurality of the votes is not enough under this system.

The two main differences between this system (AV) and FPTP are that a candidate must have an absolute majority of the votes (50% + 1) to be declared a winner and the other is the fact that electors are allowed to rank the candidates in order of their preferences rather than just voting for one candidate as is the case in FPTP. AV is the same as FPTP in that it is exclusive to single member districts. It does not ensure greater proportionality, in fact, it is alleged by some that it can be less proportional than FPTP.

This system, however, does have the advantage of enabling supporters of third

parties which have little hope of being elected to influence the election of the eventual winner by their second and later preferences. Furthermore, it requires a reasonable degree of understanding by the electors.

The International Idea Handbook of Electoral System Design points out that the Alternative Vote (AV) System is a relatively unusual electoral system as it is not used in many countries. However, Australia does use it to elect its members to the House of Representatives.

(c) TWO ROUND SYSTEM (TRS)

This system is sometimes called the Two-Ballot or the Run-Off System. This means that the election usually takes place in two rounds, often a week apart. The first round is conducted in the same manner as a normal FPTP election. If a candidate gets an absolute majority (50% + 1) in the first round, then that candidate is declared the winner. If none of the candidates get an absolute majority in the first round, then a second round of voting is held, usually a week later–thus the name Two Round System.

This system is used in the Ukraine and their second round is a straight run off between the two highest vote getters in the first round. This means that the winning candidate has an absolute majority of the votes. Other countries, which use this system, such as France, can have more than two candidates in the second round and, if so, the candidate who gets the most votes, not necessarily an absolute majority, in the second round is declared the winner.

This system is fairly expensive to use as it usually requires a second election. Another problem is that generally less people vote on the second election day than on the first day.

(d) BLOCK VOTE (BV)

The Block Vote (BV) is much the same as FPTP except that is uses multi-member districts. Each elector has as many votes as there are seats to be filled in the district. The electors are usually free to vote for individual candidates regardless of party affiliation. In some of the countries that use this system, the electors can vote for as many candidates as there are seats. That is, they can just vote for one candidate if they wish, or they can cast more than one vote. If electors do in fact cast all their votes for the candidates of one party, as is often the case, then you get much the same results as you do under the FPTP system. This system does not guarantee that the winning candidate will have an absolute majority of the votes and it does not take proportionality into consideration.

This system is used in such countries as Bermuda, Fiji, the Maldives and Kuwait.

2. PROPORTIONAL REPRESENTATION (PR)

Proportional Representation ideally means that each party gets the same proportion of seats as the proportion of votes it received in the election. So, if Party A received 60% of the popular vote, it would get 60% of the seats. If Party B got 30% of the popular vote, it would get 30% of the seats. If Party C got 10% of the popular vote, it would get 10% of the seats.

There are many PR systems and they are based on multi-member districts. These multi-member districts may vary in size. In fact, the entire country of Israel and the Netherlands are single multi-member districts for election purposes. In some PR systems, the seat distribution is determined by the overall national vote, as in the Netherlands and Israel. In other PR systems, the seats are allocated within regionally–based, multi-member

districts as is the case in Germany, Scotland, Finland and Switzerland. Electors usually do not choose among individual candidates, they are more likely to just vote for the party. They normally cast a single vote for a list of candidates nominated by the party but some systems do allow electors to change the order of the list.

There are three main systems under this group. They are:

(a) List PR

(b) Single Transferable Vote (STV)

(c) Mixed Member Proportional (MMP)

(a) LIST PR

Most of the PR systems use some form of List PR. This means that each party presents a list of candidates to the electors. The electors actually vote for a party rather than an individual candidate. The list of candidates may or may not be shown on the ballot, just the names of the parties. In some countries, the list of candidates is shown on the ballot and the elector may be allowed to give his or her preference as to individual candidates, although the candidates that the elector votes for must be on the same party list. The number of seats each party receives is proportional to its share of the national vote. The winning candidates are then taken from the list in the order that their names appear on the list. This system is designed to produce greater proportionality in translating votes into seats. All the votes cast are utilized to determine the number of seats each party wins.

Israel and the Netherlands are two countries which use the present form of List PR as the entire country forms one district or constituency. Israel elects 120 members to its Knesset. The first name on the party list is usually the leader of the party and will be the first member of that party to be elected. The elector votes for a party, so in effect, you vote for

the list and not for a particular candidate. The seats are basically distributed by the overall national vote.

A threshold is used to determine whether a particular party is entitled to receive any seats. The threshold is the minimum level of support a party must receive to have any of its candidates elected. It is usually expressed as a percentage of the vote and in Israel it is 1.5%. At present, twelve different parties are represented in the Israeli Knesset and theirs is a coalition government. The threshold is much higher in other countries; 5% is used by some and it can go as high as 10%, as in the case of the Seychelles.

The two main disadvantages of List PR are that it has a tendency to produce coalition governments, and it does not provide a strong geographical link between a member and the electors. This is especially true in countries with numerous political parties and/or where the threshold is low–for example, Israel.

(b) SINGLE TRANSFERABLE VOTE (STV)

The Single Transferable Vote (STV) system uses multi-member districts and the elector ranks the candidates in his/her district in order of preference in the same manner as is done in the AV system. It is not really a pure PR System, but it does produce a more diverse legislature.

The STV system means that each ballot has a value of one vote and it moves among candidates as determined by the elector's preferences. Electors vote for candidates and not the party. This means that independents can run.

Electors are given a ballot listing all the candidates for the district in which the elector casts his or her vote. The elector then ranks the candidates in order of preference by

placing a 1 beside their favorite candidate and then they can continue to indicate their preferences by ranking as many candidates as they like by placing 2, 3, 4, etc. beside their names on the ballot. The electors do not have to vote along party lines as they can vote for whatever candidate they prefer. The STV system therefore enables electors to choose among individual candidates instead of the party list or one party.

The preferences indicated on the ballot are then counted and the winners are elected by use of a mathematical formula. The counting of the ballots under this system is excessively complicated and it is quite possible that very few electors really understand how it is done.

This system provides a means of ensuring proportional representation while still allowing people to vote for individual candidates. It has been used in the Republic of Ireland since 1921 and was established to protect the country's religious denominations. It has also been used in Malta since 1947 and is used in Tasmania for its House of Assembly.

(c) MIXED MEMBER PROPORTIONAL (MMP)

The Mixed Member Proportional (MMP) System is a combination of the FPTP System and the PR System. It attempts to combine the positive attributes of each system. Some of the members are elected by the FPTP System, and the remainder of the members are elected by the PR List System. It is important to understand that there are many different models of MMP used around the world and the number of members that are elected using the FPTP System and the number of members that are elected from the PR List System can vary from country to country.

The electors have two votes under this system. They vote for their local member using the FPTP System in single member districts and they also vote for the party

by using regional or national party lists.

You determine who gets elected by the FPTP System first. Then each party is entitled to the number of seats in the legislature that produces a proportional result based on the party or list vote. So if Party A is entitled to 100 seats in the Legislature because of its percentage of the party vote, and it actually received 105 seats by the FPTP system, it keeps the 5 extra seats but it does not get any list seats. If Party B is entitled to 70 seats in the legislature based on its percentage of the party vote and it only gets 50 seats by the FPTP System, it would then get 20 List seats to give it a total of 70 seats.

This system was put in place in West Germany by the allied powers in 1949, and variations of it have been adopted by many countries since then. It is basically the same system as has been adopted by New Zealand, Italy, Scotland and Wales in just the last few years.

Germany elects its Bundestag, the Lower House of its Parliament with the MMP System. The Bundestag consists of 656 members and one half of these are elected from single member constituencies, while the other half are from state party lists. Each elector has two votes. The elector votes for a member of choice from the constituency and also votes for a Party List. This system works like PR, as it gives each party a percentage of seats based on the percentage of votes it received while at the same time it keeps the advantage of single member districts.

New Zealand adopted the MMP System in 1993, and the first election under this system was held in 1996. New Zealand has 120 members in its Parliament. Sixty-seven of these seats are filled with Members elected from single member districts by the FPTP

System, and the remainder are elected from the party lists. Each elector has two votes. The elector votes on one ballot for the member of his/her choice from the district and the elector also votes on a second ballot for a party list. The electors can vote for a member from one party and then vote for a different party in the party vote. Each party is entitled to as many seats in the Parliament as the percentage of party votes it received on a country wide basis. So, if Party A won 40 seats on the FPTP system and it received 30% of the Party vote, it would be entitled to 36 seats. In this case, Party A will not get any seats from the party list but it is allowed to keep its 4 extra seats. If Party B won 20 seats on the FPTP system and it received 60% of the party vote, it would be entitled to 72 seats in total or 52 seats from its party list in addition to the 20 seats from the FPTP system. If Party C won 7 seats on the FPTP System and it received 10% of the party vote, it would be entitled to 12 seats or 5 more seats from its party list. New Zealand has set its threshold such that a party must win at least 5% of all the party votes or win at least one district seat in order to receive any of the List seats.

Scotland and Wales each adopted this system in 1999 when they were given their own Parliaments by Westminister.

Scotland has 129 members in the Scottish Parliament. Seventy-three of these members are elected from single member districts by the FPTP System and they use the same district boundaries as they use to elect their members to the Westminister Parliament in London. Fifty-six of the 129 members are elected from 8 regions and each region has 7 members. These 56 members are elected from party lists in each region. So each elector has two votes, one for his or her district member and a party vote for the regional list members.

The MMP System keeps the proportionality benefits of PR systems and it keeps the benefits of the FPTP System in that electors have their own member. The MMP System

also gives electors more choice as each elector has two votes, one for his or her district member and one for the party.

Some of the features of the PR System are:

1. There are no wasted votes as all votes count.
2. It produces a more diverse legislature.
3. More women candidates get elected.
4. It makes it easier for third parties to elect members.
5. It produces an effective opposition.
6. It also provides for a government in waiting.
7. It promotes greater participation by the electorate and produces a larger voter turnout.
8. It can produce coalition governments.
9. It can result in an increase in the number of parties and can cause political instability.
10. The geographical link between an MLA and a district is removed.
11. The ballot is not as simple and straightforward.

3. SEMI-PROPORTIONAL (SP)

The third and last of the three major groups is called the Semi-Proportional group. It includes the electoral systems which usually provide results that fall somewhere between the proportionality of PR systems and the disproportionality of the Plurality-Majority Systems. These systems use both PR Lists and FPTP districts but they do not compensate for any disproportionality in the districts.

The two most common systems under this group are:

(a) Parallel System (PS); and

(b) The Single Non-Transferable Vote (SNTV).

(a) PARALLEL SYSTEM (PS)

Parallel systems use both PR Lists and FPTP districts but the PR Lists do not compensate for any disproportionality within the districts. Russia uses the Parallel System to elect members of its Duma, the popular assembly. There are 450 members and one half is elected by PR, while the other half is chosen in single member plurality districts (FPTP).

The balance between the number of PR seats and the number from FPTP varies greatly from country to country which uses this system. For example, Russia has a 50/50 split, while Japan is 62.50% FPTP, and 37.50% PR.

The Parallel System gives the electors two votes, a district member vote and a party vote on the national level.

One disadvantage of this system is that some parties may not win any seats even though they get a substantial number of votes.

(b) THE SINGLE NON-TRANSFERABLE VOTE (SNTV)

Each elector has just one vote under this system but it uses multiple member districts. The larger the number of seats in the district, the more proportional the system becomes but it does not guarantee proportional results.

The candidate with the most votes gets elected. Candidates of the same party compete against each other in the same district.

This system was used for Japan's lower house elections from 1948 to 1993. It is used today in Jordan and Vanuatu.

This system is easy to use and it is easy to count the ballots.

CONCLUSION

Most of the above information can be found on the following website: http://www.aceproject.org/main/english/es/esd01.htm

One needs to keep in mind that every system has its good points and its bad points. The trick is to find a system that best suits the particular needs of a jurisdiction.

If one can detect a particular trend it would likely be that it keeps a degree of district representation by using the FPTP System and, at the same time, it does not use strict proportionality but uses some sort of a corrective mechanism to ensure some proportionality or better overall representation.

There is a good list in the Report on Proportional Representation prepared by Elections Prince Edward Island dated April 2002, of approximately two hundred countries which shows the type of Electoral System these countries have, their population and the number of representatives.

CHAPTER 5

ELECTORAL REFORM AND THE CHARTER

The right of Canadian citizens to vote in a Federal or Provincial election is enunciated in section 3 the Canadian Charter of Rights and Freedoms as follows:

> S. 3 Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.

The scope and meaning to be given to section 3 of the Charter has been the subject of several Canadian Court decisions in recent years and the Commission feels it is important to briefly review some of these decisions so everyone understands the role section 3 of the Charter plays in Electoral Reform.

BRITISH COLUMBIA SUPREME COURT

The general principles applicable to the interpretation of section 3 of the Charter which guarantees the right to vote were first enunciated by the present Chief Justice of the Supreme Court of Canada, Beverley McLachlin, when she was Chief Justice of the British Columbia Supreme Court in Dixon v. British Columbia (Attorney General), (1989) 59 D.L.R. 4th) 247.

The Dixon case involved the validity of certain provisions of the Constitution Act, R.S.B.C. 1979, c. 62, which established the provincial electoral districts in British Columbia. It was argued that these provisions of the legislation violated section 3 of the Charter.

Chief Justice McLachlin deals with the scope and meaning of section 3 of the Charter and concludes on page 266 that:

> The historical development of voting rights in Canada and the view taken of such rights in other democracies leads inexorably to the conclusion that relative equality of voting power is fundamental to the right to vote enshrined in section 3 of the Charter. In fact, it may be seen as the dominant principle underlying our system of representational democracy.
>
> At the same time, absolute equality of voting power has never been required in Canada. It has been recognized since Confederation that some degree of deviation is permissible where other considerations so require.

Chief Justice McLachlin then goes on to state that it is up to the legislature to determine the amount of deviation permissible. However, in doing so the legislature must act in accordance with such legal principles as may be found to be inherent in the Charter guarantee of the right to vote.

She then establishes the following two legal principles which the legislature must follow when determining electoral boundaries so as not to violate the Charter right to vote.

The first principle is that equality of voting power is the single most important factor to be considered in determining electoral boundaries which leads her to find that the dominant consideration in drawing electoral boundaries must be population.

The second principle is that only such deviations from the ideal of equal representation as are capable of justification on the basis of some other valid factor may be

admitted. Chief Justice McLachlin in addressing the second principle then considers what may justify deviation from absolute equality of voting power and states on page 267 as follows:

> To this may be added a second proposition: that only such deviations from the ideal of equal representation as are capable of justification on the basis of some other valid factors may be admitted. What considerations are capable of justifying deviation from absolute equality of voting power? I would not wish to lay down an exhaustive list at this point in the development of the jurisprudence under s. 3 of the Charter. However, I am satisfied that the following general proposition may be supported: only those deviations should be admitted which can be justified on the grounds that they contribute to better government of the populace as a whole, giving due weight to regional issues within the populace and geographical factors within the territory governed. Geographic considerations affecting the servicing of a riding and regional interests meriting representation may fall into this category and hence be justifiable.

SUPREME COURT OF CANADA

The Supreme Court of Canada has considered section 3 of the Charter in Reference Re Provincial Electoral Boundaries (Sask.), [1991] 2 S.C.R. 158, which is commonly known as the Carter case. This case started as a Reference to the Saskatchewan Court of Appeal dealing with the electoral boundaries and the distribution of constituencies among urban, rural, and northern areas of the Province. Madam Justice McLachlin (as she then was) stated that the basic question before the Supreme Court in this case was whether the variances and distribution reflected in the constituencies themselves violate the Charter guarantee of the right to vote. Justice McLachlin deals with some of the same issues she discussed in the Dixon case and when dealing with the meaning of the right to vote

guaranteed by section 3 of the Charter, she states on page 183:

> It is my conclusion that the purpose of the right to vote enshrined in s. 3 of the Charter is not equality of voting power per se, but the right to "effective representation". Ours is a representative democracy. Each citizen is entitled to be represented in government. Representation comprehends the idea of having a voice in the deliberations of government as well as the idea of the right to bring one's grievances and concerns to the attention of one's government representative; as noted in Dixon v. B.C. (A.G.), [1989] 4 W.W.R. 393, at p. 413, elected representatives function in two roles– legislative and what has been termed the "ombudsman role".

She then continues to deal with the conditions of effective representation and states that the first is relative parity of voting power but continues to point out that it is a practical fact that effective representation often cannot be achieved without taking into account countervailing factors. She states that factors like geography, community history, community interests and minority representation may need to be taken into account to ensure legislative assemblies effectively represent the diversity of our social mosaic. She concludes this discussion with the following statement on page 185:

> It emerges therefore that deviations from absolute voter parity may be justified on the grounds of practical impossibility or the provision of more effective representation. Beyond this, dilution of one citizen's vote as compared with another's should not be countenanced. I adhere to the proposition asserted in Dixon, supra, at p. 414, that "only those deviations should be admitted which can be justified on the ground that they contribute to better government of the populace as a whole, giving due weight to regional issues within the populace and geographic factors within the territory governed."

The Supreme Court of Canada has subsequently confirmed these findings in the following three cases:

Haig v. Canada, [1993] 2 S.C.R. 995;
Harvey v. New Brunswick (Attorney General), [1996] 2 S.C.R. 876;
Thompson Newspapers Co. v. Canada (Attorney General), [1998] 1 S.C.R. 877.

RECENT DECISION OF SUPREME COURT OF CANADA

The most recent decision of the Supreme Court of Canada dealing with section 3 of the Charter is Figuero v. Canada (Attorney General), 2003 S.C.C. 37.

This case challenged certain provisions of the Canada Elections Act, R.S.C. 1985, c. E-2, which restricted access to certain benefits to political parties that nominated candidates in at least 50 electoral districts.

Mr. Justice Iacobucci wrote the decision for the majority of the Court. He dealt with the purpose of section 3 of the Charter and the Court once again affirmed its previous finding that the purpose of section 3 of the Charter is the right of each citizen to an effective representation in the legislative assembly.

Justice Iacobucci quoted from Justice L'Heureux-Dubé's decision in the Haig case where she summarized Justice McLachlin's discussion of the purpose of section 3 of the Charter. Justice Iacobucci then states in paragraph 25:

> As this passage indicates, this Court has already determined that the purpose of section 3 includes not only the right of each citizen to have and to vote for an elected representative in Parliament or a legislative assembly, but also to the right of each citizen to play a meaningful role in the electoral process. This, in my view, is a more complete statement of the purpose of section 3 of the Charter.

PRINCE EDWARD ISLAND SUPREME COURT

These issues have also been addressed by the Prince Edward Island Supreme Court–Trial Division in 1991 when Donald MacKinnon filed an application seeking an Order and Declaration that certain sections of the Election Act, R.S.P.E.I. 1988, c. E-1, dealing with the electoral boundaries, were null and void and of no force or effect in that they were inconsistent with and contravened the Charter.

> See: Donald MacKinnon v. Government of Prince Edward Island and the City of Charlottetown, [1993] 1 P.E.I.R. 216 (P.E.I.S.C.T.D.)

This case was heard by Mr. Justice DesRoches, now Chief Justice of the Prince Edward Island Supreme Court–Trial Division. He analyzed the comments of Chief Justice McLachlin in both the Dixon and the Carter cases and states on page 224:

> I conclude, however, that the ideal of fair and effective representation embodies a balance between absolute voter parity and non-population factors such as community history, community of interest, rate of growth, special geographic features and the like where they are present. This, in my view, is what is required by Carter, and not an examination of the actual "impact" of electoral boundaries on representation.

Chief Justice DesRoches then examined the factors which the Government alleged justified significant deviation in voter parity in the then existing electoral map. He considered the following factors: the history of electoral distribution; community history; established communities of interest; existing political and municipal subdivision; the use of counties as basic units of electoral distribution; the health of the existing political system; representation of rural areas; gerrymandering, and financial and other costs.

He found there was no merit to the argument that historical evidence establishes that the purpose of distributing seats on a relatively equal basis between the regions of the province as represented by the three counties was to ensure a wider distribution of seats and to preserve regionally sensitive representation in the Legislative Assembly. He also found that distinct communities of interest are not created by the county lines. He went on to find that the importance of the rural economy in the Province cannot be overstated and that the rural nature of the Island should continue to be reflected in the composition of the legislature. He found that some deviations could be tolerated to give effect to rural concerns but major deviations would not be justifiable. He also found that the goal of effective representation does not justify any appreciable lower voter populations in rural areas based on perceived difficulty to represent rural ridings. He was not persuaded one way or the other by the submissions on the gerrymandering issue. He dismissed the financial costs issue by stating that the right to effective representation as guaranteed by the Charter cannot be sacrificed on the altar of financial repercussions.

Chief Justice DesRoches granted Mr. MacKinnon the relief he requested and suggested that remedial action should be taken within a reasonable period of time.

The Lieutenant-Governor-in-Council then appointed an Election Act and Electoral Boundaries Commission to review the provincial electoral boundaries and the

distribution of representation. The Commission tabled its report in the Legislative Assembly in March, 1994. It recommended many changes to the electoral map of the Province. The Report was debated in the Legislative Assembly and after much debate, a motion to amend the motion to adopt the Commission's Report was adopted. The new Electoral Boundaries Act S.P.E.I. 1994, c. 13, gave Islanders their present electoral system consisting of 27 single member districts.

This legislation prompted another court application seeking an order declaring that the process by which the Legislative Assembly of Prince Edward Island determined the new electoral boundaries under the new legislation violated the guarantees of section 3 of the Charter. The application also sought an order declaring that the electoral districts as set forth in the Electoral Boundaries Act, supra, and the variances in the size of voter population between the districts and the distribution of these districts violated the Charter.

> See: City of Charlottetown, Community of West Royalty, Community of Hillsborough Park, Community of Sherwood, Community of Winsloe, Town of Summerside, Town of Parkdale, Community of East Royalty v. The Government of Prince Edward Island, [1996] 2 P.E.I.R. 382 (P.E.I.S.C.T.D.).

Chief Justice MacDonald of the Prince Edward Island Supreme Court–Trial Division heard the application. He dismissed it as he found the applicants failed to establish there had been a breach of section 3 of the Charter. He found that the process used to establish the new electoral boundaries was a fair process.

The applicants then appealed the decision of Chief Justice MacDonald to the Appeal Division of the Prince Edward Island Supreme Court. See: City of Charlottetown v. The Government of Prince Edward Island, [1998] 2 P.E.I.R. 91 (C.A.).

The majority of the Court dismissed the appeal but Justice Mitchell, now Chief Justice of the Province, wrote a strong dissent in which he concluded that the then existing electoral boundaries did violate section 3 of the Charter. He was of the opinion that the deviations in voter populations among the individual districts, other than District 24, Evangeline–Miscouche, could not be justified on the basis of valid considerations.

The City of Charlottetown applied to the Supreme Court of Canada for Leave to Appeal but their Application was dismissed without reasons.

See: Charlottetown (City) v. Prince Edward Island, [1999] S.C.C.A. 64.

GUIDING PRINCIPLES

The guiding principles to be gleaned from these court decisions are that the right to vote in section 3 of the Charter protects the right of each citizen to play a meaningful role in the electoral process. The right to vote enshrined in section 3 of the Charter is the right of each citizen to an effective representation in the Legislative Assembly. The system must give due weight to voter parity as it is the prime consideration for effective representation, but at the same time admits other considerations when it is necessary to do so to provide more effective government.

The Courts recognize that it is up to the Legislature to determine what other considerations are applicable in any given situation. However, such factors must be consistent with such legal principles as may be found to be inherent in the Charter guarantee of the right to vote and be necessary to provide more effective government.

The government of this Province has attempted in both the MacKinnon case

and the City of Charlottetown case to justify past district boundaries where large deviations from voter parity existed by emphasizing several factors, including the following:

- the history of electoral distribution in the Province;
- the health of the existing political system in the Province as reflected in government turnovers and voter participation;
- community history and established communities of interest;
- the well-established use of counties as basic units of electoral distribution;
- existing political and municipal subdivisions;
- the need to maintain sufficient representation in the Legislative Assembly for rural areas, and other areas with declining populations;
- the desirability of preventing urban domination in the Legislative Assembly;
- the impact of any sudden and dramatic loss of representation of rural areas;
- the importance of the rural economy in the Province;
- the difficulties inherent in representing rural districts;
- the small population of the Province and the ease with which partisan gerrymandering could occur;
- the financial and other costs, including loss of political stability, voter participation, and member recognition, that would be incurred if frequent redistribution was required;
- geographic barriers;
- compactness of the various districts;
- regional representation;
- the lack of a major municipal centre; and
- the reliance of rural residents on their MLA.

The Government has alleged these were valid considerations for justifying the then existing boundaries. The Court, however, has found that the majority of these factors do not apply in this Province. Chief Justice DesRoches found in the MacKinnon case that some deviation could be tolerated to give effect to rural concerns but major deviations would not be justifiable. However, he went on to find that the goal of effective representation does not justify any appreciable lower voter populations in rural districts based on a perceived difficulty to represent rural districts. He also found that the requirement of relative parity of representation between counties forces significant deviations which do not appear to be justified on the basis of practical necessity or effective representation. He then states at page 242: "In my view, to hold that distinct communities of interest are created by county lines is not realistic."

Chief Justice Mitchell simply states in his dissenting judgment, in the City of Charlottetown case, that counties in this province as political divisions are historical anomalies that ought to be abandoned rather than traditions that deserve preservation.

Chief Justice MacDonald found in the City of Charlottetown case that a deviation can be justified on the basis of a linguistic minority claim to representation and that a special status can be given to the Evangeline–Miscouche District to allow the Acadian population an exclusive district. The Court of Appeal confirmed this finding and Chief Justice Mitchell agreed with it in his dissent where he states on page 110: "It seems common ground that deviation is appropriate in the case of district 24, Evangeline–Miscouche, because of its distinctive Acadian culture."

Chief Justice MacDonald also found that there had not been any clear evidence presented to establish any inherent disadvantage in having a mixture of rural and urban voters in the same district.

It, therefore, appears from these two Court decisions that there may be only three factors which have any merit for allowing deviation from voter parity in the electoral districts in Prince Edward Island. They are:

- rural concerns
- linguistic minority claims, and
- rural and urban voters in the same district.

CHAPTER 6

STATUTE REVIEW

The Commission has, in the previous chapter, dealt with the area of Electoral Reform and the Charter in some detail. This was necessary as the Commission was mandated, among other things, to review all the statutes and associated regulations respecting the manner in which members of the Legislative Assembly are elected in this Province. It has also been asked to consider what impact district boundary changes due to population shifts may have for rural communities.

ELECTORAL BOUNDARIES ACT

One of these statutes is the Electoral Boundaries Act, R.S.P.E.I. 1988, Cap. E-2.1. This statute was enacted in 1994. It provides for the 27 provincial electoral districts that now exist in the Province and their individual boundaries. It also provides for the establishment of an Electoral Boundaries Commission after every third general election to review the electoral districts of the Province. The Commission is required to make a report to the Legislative Assembly setting out its recommendations as to the areas, boundaries, and names of the districts. However, the Act does not contain any provision setting forth what the Legislative Assembly must do with the Commission's Report. Presumably the Legislative Assembly may decide not to do anything with the Report. This does not present itself as a logical solution. Some direction should be provided whereby it is clear as to what is supposed to happen to the Report of the Electoral Boundaries Commission after it has been submitted to the Speaker of the Legislative Assembly and laid before the Legislative Assembly. There should, at least, be a debate on the Report and a clear explanation provided to the electorate of this Province as to why the Legislature took whatever action it did take.

It is important to note the wording of sections 3, 4 and 5 of the Act which

sections state as follows:

> 3. Prince County is divided into nine districts, to be styled as Tignish-DeBlois, Alberton-Miminegash, West Point-Bloomfield, Evangeline-Miscouche, Cascumpec-Grand River, St. Eleanors- Summerside, Wilmont-Summerside, Kensington-Malpeque, and Borden-Kinkora.
>
> 4. Queens County is divided into thirteen districts, to be styled as Park Corner-Oyster Bed, Crapaud-Hazel Grove, North River-Rice Point, Winsloe-West Royalty, Charlottetown-Rochford Square, Charlottetown-Kings Square, Parkdale-Belvedere, Sherwood-Hillsborough, Stanhope-East Royalty, Tracadie-Fort Augustus, Glen Stewart-Bellevue Cove, and Belfast-Pownal Bay.
>
> 5. Kings County shall be divided into five districts, to be styled as Murray River-Gaspereaux, Montague-Kilmiur, Georgetown-Baldwin's Road, Morell-Fortune Bay, and Souris-Elmira.

It is very obvious that the 27 electoral districts are presently drawn by using the three counties as district geographical areas, a fact which may well run counter to the court decisions the Commission dealt with earlier in Chapter 5.

It is even more obvious that the wording of section 5 of the Act that Kings County "shall" be divided into five electoral districts thereby giving Kings County five members of the Legislative Assembly without any regard for the relative parity of voting power or any valid considerations which might justify some deviation runs counter to section 3 of the Charter. What justification is there that such a requirement is necessary for the provision of effective representation in the Legislative Assembly? This section of the Act does not take into consideration the fact that the Supreme Court of Canada has made it very clear in its decisions that redistribution must now be based on relative parity of voting power

as the first condition of effective representation.

This legislated requirement to give Kings County five electoral districts basically requires the large deviation quotient of ± 25% across the Province which is provided in subsection 17(2) of the Act.

SECTION 17

The provisions of section 17 of the Act are important as they direct the Electoral Boundaries Commission to consider certain matters in preparing its report. It reads as follows:

> 17(1) Subject to subsection (2), in determining the area to be included in, and fixing the boundaries of a district, a Commission shall take into consideration
>
> (a) the Canadian Charter of Rights and Freedoms;
> (b) enumeration data from the most recent general election;
> (c) polling divisions from the most recent general election;
> (d) geographical features;
> (e) population patterns;
> (f) municipal boundaries, and may consider such other factors as it regards as relevant.
>
> (2) The number of electors of a proposed district shall not be more than 25 per cent above, nor more than 25 per cent below the average number of electors of all the proposed districts.

It is very obvious that the Canadian Charter of Rights and Freedoms has to be considered in light of the decided Court cases dealing with section 3 of the Charter. Such consideration will reveal that geographical features are really not a valid consideration in this Province and that municipal boundaries do not have to be strictly adhered to when setting the

District boundaries. On the other hand, it is just as obvious that the Electoral Boundaries Commission may give consideration to rural concerns, linguistic minority claims and rural and urban voters in the same district.

DEVIATION QUOTIENT

Section 17(2) of the Electoral Boundaries Act is an important part of the Act as well. It establishes the deviation that is allowed from district to district by setting a deviation quotient of ± 25%. This means that if the average number of electors for the districts (the electoral quotient) is 3,000 voters, then the districts may vary in size by ± 25% such that a district may vary from 2,250 electors to 3,750 electors or a difference of 1,500 electors. This would be considered satisfactory if the ± 25% variance was justified pursuant to section 3 of the Charter.

Questions were raised in the MacKinnon case as to what an appropriate deviation quotient would be. Chief Justice DesRoches stated that it should be established by the Legislature but indicated that a variance of ± 10% might well be appropriate for Prince Edward Island. The 1994 Electoral Boundaries Commission chaired by MLA Lynwood MacPherson recommended a variance of ± 15%. However, the Legislature adopted a variance of ± 25% and this raises the question whether such a deviation from voter parity can now be justified on the basis of valid considerations. The applicants argued in the City of Charlottetown case that the ± 25% variance provided for significantly more latitude than was necessary in order to achieve relative voter parity in Prince Edward Island.

It would appear that the Legislature adopted the ± 25% figure because of the requirement to give five districts to Kings County. In fact, Chief Justice MacDonald states in the City of Charlottetown case that it was the requirement for five seats in Kings County that necessitated the variance level of ± 25%. If this was in fact the case and it cannot be

shown to be justified on the basis of valid considerations, then the ± 25% figure is obviously too high and should be adjusted to a more realistic figure of somewhere in the vicinity of ± 15%.

The statistics from the recent 2003 Provincial Election in this Province reveal that 97,180 electors were on the Register of Electors list for the election. This means that the electoral quotient was 3,599 electors. Nine districts exceeded the ± 25% variance as prescribed by the statute. The district with the lowest number of electors had 2,584 and was 28.20% below the electoral quotient. The district with the greatest number of electors had 4,976 and was 38.26% above the electoral quotient. This means there was a difference of 2,392 electors between these two districts or a difference of 66.46% of the electoral quotient.

It is readily apparent that such variance cannot be justified in this Province on the basis of valid considerations and, therefore, needs to be adjusted along the lines already suggested with special allowance being made for the Evangeline-Miscouche district.

The following table shows the deviation quotient for each of the Canadian provinces, the Territories and Canada. It is obvious that a majority of the jurisdictions have a quotient of ± 25% but one must keep in mind that valid considerations may well apply in those jurisdictions which have no application in this Province. The Commission also understands that some of the Provinces are now moving closer to a 10± quotient.

DEVIATION QUOTIENT	
JURISDICTION	**QUOTIENT**
Newfoundland and Labrador	± 10%
New Brunswick	± 25%
Nova Scotia	± 25%
Prince Edward Island	± 25%
Quebec	± 25%
Ontario	± 25%
Manitoba	± 5% South of 53rd parallel ± 25% North of 53rd parallel
Saskatchewan	± 5 South of dividing line Nil North of dividing line
Alberta	± 25%
British Columbia	± 25%
Yukon	± 25% *
Northwest Territories	± 25% *
Nunavut	± 25% *
Canada	± 25%

* ± 25% is basically used in these jurisdictions but it does not appear to be legislated as such.

The Commission also points out that the boundaries of two of the present twenty-seven electoral districts do not conform to the statutory requirements, which stipulate that each county is or shall be divided into so many districts per county, as District Murray

River–Gaspereaux includes part of Queens County and District Tracadie–Fort Augustus includes part of Kings County.

THE ELECTION ACT

The Election Act, R.S.P.E.I. 1988, Cap. E-1.1 is another statute which involves the manner in which members of the Legislative Assembly of Prince Edward Island are elected. It has been amended from time to time over the years and is kept up to date on a regular basis.

A Special Committee on the Election Act was established by resolution of the Legislative Assembly on June 9, 2000. The Committee held a series of public hearings and prepared a Report which was presented to the Speaker of the Legislative Assembly in April, 2001. This Special Committee was chaired by MLA Jim Bagnall and it made several recommendations which were enacted by Legislation in 2002. One of the recommendations was:

> Your Committee recommends that the best way to achieve the desired objective of enhancing the accuracy of lists of electors within a short time frame is to invoke a system of "confirmation" rather than enumeration.

This recommendation was adopted by the Legislative Assembly and the Election Act now contains provisions for a general confirmation of electors to take place starting within 48 hours of the date of the Writ of Election. This means that a lot of work has to be done within a very limited time frame to complete a roll of electors for the election. It has been suggested to the Commission that this whole process needs to be studied and more time should be allowed to carry out all the work involved in such a process as the present time frames are very compressed and do not provide sufficient time to properly carry out all the tasks associated with such a process.

The Federation of Prince Edward Island Municipalities recommended to the Commission that the Election Act should be amended to provide for a three month window between a provincial election and municipal elections which take place every third year on the first Monday of November. There is a lot of merit to this recommendation and it is a timely recommendation as the Provincial Election was held on September 29, 2003, and the Municipal Elections took place on November 3, 2003. An appropriate span of time between these elections would make it easier and less confusing for all concerned.

The time has probably arrived to include a provision in the Election Act, in addition to the provision now found in section 8 of the Act, giving the Chief Electoral Officer the authority to postpone the ordinary polling day and the authority to adjust the hours the polls are open on ordinary polling days. This authority would only be exercised in rare circumstances such as weather conditions or other unforseen developments. This apparently has never been a problem over the years but came very close to being a problem for the 2003 Provincial Election as a result of the visit of hurricane Juan to the Island just hours before the opening of the polls on Election Day.

Some people suggested to the Commission that the time has also arrived to include a provision in the Election Act limiting the actual time frame in which the Writ for an election may be issued. Section 4 of the Canadian Charter of Rights and Freedoms provides as follows:

> 4.(1) The House of Commons and no legislative assembly shall continue for longer than five years from the date fixed for the return of the writs at a general election of its members.
>
> (2) In time of real or apprehended war, invasion or insurrection, a House of Commons may be continued by Parliament and a legislative assembly may be continued by the legislature beyond five years if such continuation is not opposed by the votes of more than one-third of the members of the House of Commons or the legislative assembly, as the case may be.

It is readily apparent from these provisions that there are no restrictions on when an election may be called within the specified five year period. The experience in this Province over the last century has been to hold a Provincial Election on an average of every three and one-half years as 28 Provincial Elections were held in the period 1900 - 2000, as shown in the following table.

PRINCE EDWARD ISLAND PROVINCIAL ELECTIONS		
1900 - 2000		
1900	1939	1978
1904	1943	1979
1908	1947	1982
1912	1951	1986
1915	1955	1989
1919	1959	1993
1923	1962	1996
1927	1966	2000
1931	1970	
1935	1974	

The Province of British Columbia has a fixed term of four years for its provincial elections and some of the other provinces are now considering the issue. This matter can be dealt with by a fixed date as British Columbia has done or it can be done by selecting, as one person suggested, a very narrow window during which an election must be called.

OTHER RELEVANT LEGISLATION

The Election Expenses Act, R.S.P.E.I. 1988, Cap. E-2.01, the Legislative Assembly Act, R.S.P.E.I. 1988, Cap. L-7 and the Controverted Elections (Provincial) Act, R.S.P.E.I. 1988, Cap. C-22 may also be viewed as coming under the mandate of the Commission; however, the Commission will not deal with any of these Acts in this report. Each one of these Acts deals with a very specific area and are not as directly related to the manner in which members of the Legislative Assembly are elected.

CHAPTER 7

IMPACT OF DISTRICT BOUNDARY CHANGES ON RURAL COMMUNITIES DUE TO POPULATION SHIFTS

The Commission was also mandated to consider what impact district boundary changes due to population shifts may have for rural communities in this Province. It is very difficult to make this assessment without current, accurate, up-to-date population figures. The 2001 Census figures shows a Prince Edward Island population of 135,294 and is already out of date.

The 29th Annual Statistical Review 2002 for the Province of Prince Edward Island as prepared by Economics, Statistics and Federal Fiscal Relations Division, Department of the Provincial Treasury, Province of Prince Edward Island, June 2003, states that the preliminary figure for the population of the Province as on July 1, 2002, was 139,913. Statistics Canada released revised population estimates on September 25, 2003, which show that on July 1, 2003, the population of the Province was 137,781. It does appear that the July 1, 2002 figure of 139,913, may be high and the July 1, 2003 figure released by Statistics Canada showing a population of 137,781 may be a more realistic figure. The problem with this figure is that at the time of preparing this Report, Statistics Canada had not released any breakdown figures associated with this population figure.

The figures in the following chart illustrate that the population of Prince Edward Island has not varied a great deal over the past eight years. These figures are taken from the 29th Annual Statistical Review 2002 with the exception of the 2003 July 1 figure which comes from Statistics Canada.

Year	Population Prince Edward Island
1996	136,188
1997	136,852 (R)
1998	136,891 (R)
1999	137,757 (R)
2000	138,341 (R)
2001	138,904 (P)
2002	139,913 (P)
2003 July 1	137,781 (C)

R - revised data
P - preliminary data
C - Statistics Canada

The 2001 Census figures show a rural–urban split of 74,619 or 55% rural and 60,675 or 45% urban and 5,880 Acadians. The gender breakdown for the province was 71,341 females, or 51%, and 68,572 males, or 49%.

The 2001 Census population figures for the four Prince Edward Island Federal Electoral Districts were as follows:

FEDERAL DISTRICT	2001 POPULATION
Cardigan	30,437
Egmont	35,198
Hillsborough	35,252
Malpeque	34,407
TOTAL	135,294

The following chart illustrates the population of each county over a twelve year period from 1991 to 2002. These figures are taken from the 29th Annual Statistical Review 2002.

YEAR	PRINCE	QUEENS	KINGS
1991	43,357	67,540	19,415
1992	42,989	68,403	19,486
1993	43,441	69,262	19,640
1994	43,977	69,994	19,720
1995	44,461	70,511	19,816
1996	45,071	71,357	19,760
1997	45,012	72,077	19,763
1998	44,842	72,316	19,773
1999	45,101	72,839	19,817
2000	45,243	73,268	19,830
2001	45,267	73,814	19,823
2002*	45,448	74,585	19,880

* The figures for the year 2002 are based on the Island population figure of 139,913.

These figures shown in the above chart for the three counties over a period of twelve years are interesting as they show very little change over the years in Kings County which has remained fairly constant with an average population of 19,728. Prince County has had an average population of 44,100 over the same period and has also not shown a great deal of growth. Queens County, on the other hand, has shown growth with an average population over the same period of 71,335 people.

Another source of statistics for the purpose of this analysis is the Report of the Chief Electoral Officer of Prince Edward Island for the Provincial Elections. These Reports for the Provincial General Elections for the years 1996 and 2000 give the number of electors enumerated and the number confirmed for 2003.

ELECTORS ENUMERATED				
	COUNTIES			
ELECTION YEAR	KINGS	QUEENS	PRINCE	TOTAL
1996	13,810	48,966	31,239	94,015
2000	13,932	48,928	31,237	94,087
2003	13,855	51,726	31,579	97,180

Once again, these figures do not show much change. Both Prince County and Kings County have remained relatively the same for the past three elections while Queens County has shown modest growth. It is curious as to why there was an increase of 3,093 electors in the 2003 election over the 2000 election when the 1996 and the 2000 elections both had about the same number of electors despite the fact the population figures showed an increase of 2,163 people in 2000 over the 1996 figures while the population figure for July 1, 2003 shows a decrease of 560 people from the year 2000. The following chart helps illustrate these figures.

YEAR	POPULATION	ELECTORS
1996	136,188	94,015
2000	138,341	94,087
2003 July 1	137,781	97,180

One possible explanation is the fact that a confirmation process was used to establish the Register of Electors for the 2003 election instead of the previous enumeration process. The confirmation process which was used for the first time in 2003 election may provide a more complete list of electors than did the old enumeration process. There should be technology available today which would enable Elections P.E.I., in co-operation with Elections Canada, to maintain an up-to-date Register of Electors from year to year which after confirmation at election time should provide a very complete list for an election.

So what impact do all of these figures have on district boundary changes for the rural areas of Prince Edward Island?

The Commission believes the impact would not be very great once the district boundaries are properly adjusted in accordance with section 3 of the Charter and the current Canadian jurisprudence on the issue. The case law clearly indicates that there can be variations in the population size between districts so long as such variations can be legally justified. If there are no applicable valid considerations to justify deviations from district to district, then there should be equality of voting power among the electors of this Province. The Supreme Court of this Province has already decided that some deviation can be tolerated to recognize rural concerns but that major deviations are not justifiable. The Court has also decided that a deviation can be justified on the basis of a linguistic minority claim to representation and that the Acadian population represented by the Evangeline-Miscouche District is entitled to a special status. The only other valid consideration that has been established in this Province to date is that it is permissible to have a mix of rural and urban voters in the same district.

The Commission believes that if an Electoral Boundaries Commission uses these guiding principles in establishing the boundaries of electoral districts that one would not expect to find a great deal of change from one election to another. There should not be much, if any, impact on rural communities if they are allowed a variance of ±15%. A

formula based on the following considerations could be used to establish the district boundaries:

> The number of electors in the 2003 election was 97,180. Subtract from this figure the number of electors in the Evangeline-Miscouche District – 2,980. This leaves a balance of 94,200 electors. Divide this number by 26, the remaining number of districts, and you get an electoral quotient of 3,623. So one would start at one end of the Island and by using a variance of ±15% and the electoral quotient of 3,623, the district boundaries would be established across the Province without paying any attention to the County lines.

This Commission appreciates that this is the responsibility of a properly constituted Electoral Boundaries Commission and this Commission will not attempt to intrude on its territory. However, the present Electoral Boundaries Act has to be changed to allow the Electoral Boundaries Commission the proper scope and authority to perform its task in accordance with Canadian jurisprudence.

CHAPTER 8
ELECTORAL REFORM
IN
THE OTHER PROVINCES

Prince Edward Island is not the only Canadian province looking at Electoral Reform. British Columbia and Quebec are leading the way while other provinces, such as New Brunswick, Ontario and Newfoundland and Labrador have shown interest in moving toward reform as well. Organizations such as Fair Vote B.C., Fair Vote Ontario, Mouvement pour une Democratic Nouvelle (Quebec), Every Vote Counts (P.E.I.) and Fair Vote Canada are springing up across the country calling for reform to the First Past the Post System.

This Chapter will explore what is taking place in some of these provinces.

BRITISH COLUMBIA

British Columbia Premier Gordon Campbell promised the residents of British Columbia, during the last Provincial Election, that he would appoint a Citizen's Assembly to hold public hearings across the province of British Columbia to consider various models for electing the Members of the Legislative Assembly. Premier Campbell appointed Gordon Gibson, Senior Fellow in Canadian Studies at the Fraser Institute, in the fall of 2002, to design a Citizen's Assembly which would consider alternatives to their present electoral system. Mr. Gibson submitted a report to the Premier in December 2002. Premier Campbell is now in the process of selecting two citizens from each of the seventy-nine electoral districts to be members of the Citizen's Assembly. The Assembly will be chaired by Jack Blaney, a former President of Simon Fraser University. He will have the responsibility of guiding the Assembly's deliberations.

The mandate of the Assembly is to assess all possible models for electing members to the Legislative Assembly including preferential ballots, proportional representation and the current FPTP electoral system. It will hold public meetings throughout the province and receive oral and written submissions. If the Assembly recommends changes to the current system, it will recommend one alternative system to the general public of British Columbia for adoption. This will take place by means of a referendum on May 17, 2005, in conjunction with the next Provincial Election in British Columbia. The British Columbia Government has stated that 60 percent of the public and a majority vote in 60% of the Electoral Districts is required to ratify the proposed alternative before it can become law. It will be interesting to watch this process unfold and see what sort of a system the Assembly recommends. It will also be interesting to see if the two conditions mentioned above are met so as to enable implementation of the new proposed system.

QUEBEC

The former P.Q. Government of Quebec established The Estates General on the Reform of Democratic Institutions in 2002. The Estates General arose out of citizen dissatisfaction with the traditional political institutions. It was a process to open up public debate so that a popular will might be expressed through its sessions with the public.

The Government established a Steering Committee of nine people. This Committee was augmented by one regional agent from each of the regions in the Province. These regional representatives then joined the nine member Steering Committee to form the Office of the Estates General which was chaired by Mr. Claude Béland. This Committee was given a mandate to design, prepare and hold the Estates General on the Reform of Democratic Institutions. It held a series of twenty-seven public meetings throughout the Province in the fall of 2002 and found that the people complained about the following issues:

1. The powerlessness of the majority with regard to their democratic institutions.
2. Existing voting procedures. For many, ideological pluralism is limited in a majority vote regime, and individual votes have no visible impact on the overall result.
3. The concentration of power at the government level.
4. The executive's excessive regulatory powers that diminish the powers and prerogatives of the legislative assembly.
5. The role of members (MNAs) and their inability to respond to the expectations of many voters.
6. The obligation of members to tow the party line.
7. The risk of concentrating development activities, economic as much as social and cultural, in the most heavily populated areas to the detriment of the development of all inhabited areas of Québec.
8. The power of the Premier to call elections at the time he sees fit.
9. The lack of understanding of the majority of voters about political systems, democratic institutions and the platforms of the political parties.
10. The complexity of the mechanics of government and its many layers.
11. The lack of women, young people and representatives of Québec's cultural diversity in the National Assembly.
12. The absence of First Nations representation.
13. The numerous cases of fraud or irregularity that still occur at election time.
14. The lack of effective control over government management.

The Estates General then held a three day meeting of the Estates General on the Reform of Democratic Institutions in Quebec City during the month of February, 2003. This meeting was attended by over one thousand delegates from across the Province of Quebec. These delegates expressed a common will for change. The Steering Committee then submitted a final report to the government containing recommendations for change.

A Provincial Election was held in Quebec in April 2003, and resulted in a change of government. The new Premier, l' honorable Jean Chárest, has promised a proposal for reform of the democratic institutions within the next year. This proposal will include proposed reforms of the electoral system so that the distribution of seats in the National Assembly will better reflect the voters' intentions.

The Minister responsible for the Reform of Democratic Institutions in Quebec, l' honorable Jacques Dupuis, has since stated he intends to introduce an element of Proportional Representation to the Quebec Electoral System in an effort to make the National Assembly more representative of the electorate.

It will also be interesting to watch these developments and see what actual reforms are enacted in law in the Province of Quebec.

GENERAL

It is this Commission's understanding that the Government of New Brunswick is in the process of appointing an Electoral Reform Commission to study reform in New Brunswick.

In addition, the new Premier of Ontario, the Honorable Dalton McGuinty, promised during the recent election campaign in Ontario that he would hold a binding referendum during his first term in office on changes to the present Ontario Electoral System.

The Law Reform Commission of Canada is now preparing a report which will contain recommendations for the Federal Government as to how the Federal Electoral System might be changed. This Report is expected to be released in early 2004.

CHAPTER 9

THE ROAD AHEAD

The 2003 Electoral Reform Commission has been asked, among other things, to examine alternative electoral systems, namely proportional representation, and to determine the relevance of an alternative for Prince Edward Island. This request signals the growing interest that many people have today in their present electoral system and their interest and concern for its future.

The Commission has found that many people are expressing the view that the present system, First Past The Post, needs to be examined and a determination made as to whether it still meets the desires and expectations of today's electorate or whether it needs some alterations which will allow it to better respond to current realities. They argue that under the present system every vote is counted but not every vote counts. The Commission is also aware that there are many people who are content with the present FPTP System. They argue that the present system has served the Province well over these past two hundred and thirty years and will continue to do so into the future.

The Commission has attempted, in Chapter 2 of this Report, to illustrate how the FPTP System has evolved in this Province since 1773 and to point out some of the changes which were adopted over the years to keep the system responsive and in tune with the expectations of the time. The work of this Commission is viewed as just another step in the evolution of the electoral process. The time has probably now arrived for more modifications to the electoral system to ensure that it remains responsive to the expectations and demands of the 21st Century.

It has been stated that the key to the enduring appeal of FPTP is to be found in its simplicity. There is no doubt that the simplicity of the present system is a strong feature which resonates with many people. However, everyone needs to realize that this simplicity

is due, in part, to the fact that the FPTP System was designed in an era when many people could not read or write and it, therefore, had to be a simple system to accommodate such conditions. Similar conditions do not exist in Prince Edward Island today. Gradual change and accommodation have been the watchwords over the years in this Province and the process must continue. The right to vote guaranteed in section 3 of the Charter is the most basic prerequisite of our form of government and any attempt to diminish the voting rights of individuals violates the democratic system of government. As Mr. Justice Cory of the Supreme Court of Canada has stated in the Carter case, the fundamental right to vote should not be diminished without sound justification. Voting, he said, is far too important and precious a right to be unreasonably and unnecessarily diluted. Everyone needs to concentrate on the fact that people are now entitled to an electoral system which ensures that all citizens have an effective representation which promotes the diversity of interests and opinions found in today's society.

It is difficult to survey The Road Ahead because of many factors, not the least of which is the Law of Unintended Consequences, which simply means that change often brings results which were not really anticipated. The one thing that did come across loud and clear at the public meetings was the request to keep District Members of The Legislative Assembly even though their number may be reduced. Islanders want to be able to identify with their District MLA and the Commission respects this fact.

There is no single electoral system which fits all jurisdictions. However, the review in Chapter 4 of the Major Electoral Systems Used Around The World illustrates that different Electoral Systems have quite different consequences; some major and some minor. There are advantages and disadvantages to the Alternative Vote System, the Two Round System and the Block Vote System makes them unlikely candidates for selection in Prince Edward Island. It is just as likely that the Semi-Proportional Systems would not be given much, if any, considerations either. This leaves the Proportional Representational Systems for consideration.

Chapter 4 contains a description of the three main systems in the Proportional Representational Group. These are List PR, Single Transferrable Vote (STV) and the Mixed Member Proportional System (MMPS). The Commission does not believe that the List PR System would be a suitable system for this Province. It does not provide the strong geographical link between a member and the electors which this Commission has acknowledged is a necessity for any system to be accepted in this Province. It also has a tendency to produce coalition governments, an equally unpopular result. It is, however, quite possible that some variation of the other two Systems of Proportional Representation could find favour as an alternative to the present FPTP System.

This is not the first time that some form of Proportional Representation has been considered as an alternative for Prince Edward Island. It has been pointed out in previous Chapters of this Report that J. Andrew Cousins produced a Discussion Paper in October, 2000, on Electoral Reform for Prince Edward Island in which he advances a new electoral system for the Province based on a Mixed Member Proportional Representational Model along the lines of the systems used in Germany, New Zealand, Scotland and Wales. It was Mr. Cousins' conclusion that a mixed system, combining the preservation of the single member district with enough proportionality to ensure that a respectable number of opposition members are elected, would be the most likely option to be accepted on Prince Edward Island. His paper leaves many of the details of such a system fairly wide open with some suggestions for their resolution.

The Special Committee on the Election Act, chaired by MLA Jim Bagnall, considered the matter of proportional representation closely and carefully. It reviewed the Report and the recommendations of the Election Act and Electoral Boundaries Commission, chaired by MLA Lynwood MacPherson in 1994, and agreed with the conclusion reached by the MacPherson Commission which recommended as follows:

The adoption of Mixed Member Proportional Representation

> (MMPR) in this Province would represent a major departure from traditional British and Canadian electoral approaches. While there are some features of MMPR that may be commendable, its implementation in this jurisdiction would not be appropriate at this time. First, there has been little experience with MMPR within Canada. Second, there has been limited discussion among political parties and the populace about the merits of such an approach. Lastly, there are a number of important issues related to PR which would require much debate. These issues include the role of political parties in selecting list candidates, the accountability of list candidates to the public and the method of apportioning seats to political parties following each election. Based on the above, the Commission concluded that MMPR would not be pursued at this time.

The Bagnall Special Committee agreed, however, that the matter of proportional representation was worthy of further examination and listed some of the issues it felt remained unanswered and needed more study. These issues included:

1. Generally, is a system of proportion representation in the long term best interest of Prince Edward Island and its people given our historic stability, reasonable satisfaction with our current system, high political involvement/participation and extremely high voter turnout? Do one-sided electoral results in three of the last four General Elections clearly demonstrate a problem of such magnitude that drastic electoral reform is required immediately? Islanders have been electing General Assemblies since 1773 by the traditional FPTP system and have not in any significant way been demanding electoral reform.

2. Very important detail surrounding the implementation of an acceptable system of PR or MMPR have not been adequately developed. For example, if Prince Edward Island were to agree to a system of PR in principle, what form should it take? If we adopt the 30 seat House with 20 constituency seats and 10 list seats, for example, how do

Prince Edward Islanders;

a. select a system of proportional representation that affords electoral map flexibility to reflect our unique demographic, cultural and historical characteristics? For example, our electoral districts must be comprised of approximately the same number of electors in each district (presently the legislation allows for a ± 25% variance from the mean). With a reduction to 20 constituency seats, does there exist sufficient flexibility to allow for the establishment of an electoral map that reflects a desirable rural/urban distribution of seats and adequate representation for each of P.E.I.'s three counties?

b. How does PR work with a comparatively small population base and small single member constituencies? (a comprehensive review of other small countries/jurisdictions with PR will be beneficial).

c. How are party lists created and what is the role of political party organizations in the creation of these lists?

d. Should there be a maximum number of terms a list member may sit in the House? If the Member wishes to continue to sit in the House after serving two terms as a list MLA for example, should they be required to contest a constituency seat?

e. How accountable are list members to the electorate for their actions? Are list members more accountable to the party than to the electorate?

f. Would electors vote twice, once for the constituency representative of choice then again on a ballot to select their top ten list MLAs (preferential voting) or

would Islanders vote once and the list MLAs determined solely on the strength of popular vote.

g. What effect would by-elections have on the distribution of list seats in the House? Would the change in popular vote resulting from a by-election result in a change in the distribution of list seats in the middle of a General Assembly and if so, would this create instability?

h. Would there be created within the House two separate "types" of MLAs such that one would have more or less authority/respect than the other? (List MLAs vs. Constituency MLAs)

This Commission does not purport to have the answers to all these questions but it believes that answers are available for some of them and is prepared to make some suggestions as to how others might be resolved.

Issue 1:

The voice for reform is becoming louder all the time as is illustrated by the formation in this Province of the advocacy group, "Every Votes Counts", and by the many letters and guest opinions that appear in the daily media from time to time. The interest in this Commission is another indication of the growing desire for change as well. The 2003 election results can be considered a one-sided result along with the 1989, 1993 and 2000 election results so one can not say this trend has corrected itself.

Issue 2(a):

The Commission believes that this issue has been dealt with and answered in Chapters 5, 6 and 7. It does not anticipate or forsee any problems in drawing an electoral

map with approximately twenty-one, single member districts so long as the Electoral Boundaries Commission is given the authority to proceed in accordance with the principles enunciated by the Courts of this country concerning the right to vote as enshrined in section 3 of the Charter.

Issue 2(b):

The Report on Proportional Representation prepared by Elections Prince Edward Island in 2002 deals with this issue and provides answers to these concerns.

Issue 2(c):

This is an issue which requires investigation and study to provide a complete answer. However, one of the possible ways to solve this issue is for each of the political parties to hold a party conference to select these candidates and to determine the order their names appear on the List of Candidates. Such a conference would be attended by party delegates from across the Province. These delegates would be responsible to select the List Candidates and then to rank them on the List of Candidates. Such a process would provide another opportunity for party supporters to become involved in the political process and to take a greater interest in the Election itself. It is the party vote under the MMPS which determines how many seats each party gets after the election.

Issue 2(d):

One of the advantages of this System is that there are not many set and fast rules which means that each jurisdiction may basically set its own rules and regulations. So it is possible to have a provision that limits the number of elections any one person is elected as a List Candidate. It can be set at one, two or whatever number is desired. If a List Candidate has in fact won a seat in the Legislature and that member wants to re-offer in the

next election, then that member may or may not have to contest a district seat the second time for re-election. These regulations can all be determined either prior to a determination to try the MMPS or after the decision has been made. If the system only allows a List Candidate to be elected once as a List Candidate, then the List Candidate will be encouraged to become involved in the district work if they intend to run for a district seat in the next election.

Issue 2(e):

One of the main criticisms made against MMPS is that list MLA's would not be accountable to the electorate as they would owe their allegiance to the party. In many ways, the list members are accountable to both the electorate and to the party. Some people see it as a great strength to have members who can become involved in policy research without having to worry about finding employment for local residents. List members who intend to seek re-election as a district member will obviously want to maintain contact with the electorate in the district where they intend to seek re-election.

Issue 2(f):

Once again, this issue can be handled in different ways. It would be possible to have a system in which the electors only vote once. This would be for the district members. The party vote would then be determined from this vote and it would be used to determine the number of seats each party is entitled to in the Legislative Assembly. Such a one vote system, however, only allows the elector to indicate which candidate they prefer. It does not give electors the opportunity to vote for their favourite candidate and also vote for the party of their choice. It is possible that electors may wish to vote for the candidate they feel would make a good member of the Legislative Assembly but feel that a different party would be the best party to form the government, or the Opposition. An elector would not have this choice if there is only one vote. It is more likely though that the electors would

have two votes. They would have a vote for their local district member and a separate vote for a party list. The two votes give the electors more choice and allows them to vote for a candidate from one party as their district MLA and then to vote for a different party in the party vote. Some people will argue that two votes makes the process too confusing for the electors but Islanders have had two votes for many years, one for a Councillor and one for an Assemblyman and they never had problems voting on election day. Some systems allow the electors to actually rank the list candidates on election day as well. Some of these systems restrict the electors to just ranking the candidates of the party they voted for while other systems allow the electors to cross party lines and rank the candidates from all parties.

Countries, such as Germany, New Zealand, Scotland and Wales which have the MMPS provide for two votes – one for the district MLA and one vote for the party list.

Issue 2(g):

One possible way to deal with vacancies is to fill those seats for the remainder of the term by selecting the next individual on the party list who is willing to serve the remainder of the term. If it was done this way, there would not be any need for a by-election at all and the distribution of party seats in the Legislative Assembly would remain the same. There would not be any instability caused by such a procedure as everything would remain the same as before the vacancy occurred. It is also possible to fill a vacant List seat in this manner and still have a by-election for a vacant District seat.

Issue 2(h):

The Commission has not been able to find a great deal of information on this particular issue. It did, however, come across a paper prepared by Thomas Lundberg, PhD candidate, Department of Political Science, University of Notre Dame, Indiana, U.S.A. which he presented to the 52nd Annual Conference of the Political Studies Association, Aberdeen,

Scotland, April 5 - 7, 2002. It is entitled Electoral System Effects On The Partisan and Constituency Roles of German Legislators: Lessons for Scotland and Wales? This paper may be found at the following website: www.psa.ac.uk/cps/2002/lundberg.pdf

Mr. Lundberg points out that most literature on German legislators suggest there is no "class" distinction between those directly elected from districts and those indirectly elected from party lists. He states in his introduction, as follows:

> In Germany, however, it is generally assumed that representatives elected from party lists are not tarred with any second-class status, although scholarly investigations into the existence of and distinction between the two types of legislators have been infrequent.

There does appear to have been some initial problems with this issue in Scotland and Wales over how the different members perceive one another. There does not appear to have been the same respect shown between the two groups of candidates in Scotland as has been the case in Germany.

The Commission does not perceive any of these issues as major hurdles to the implementation of some form of a Mixed Member Proportional System (MMPS), in part at least, because of the small size of the Legislative Assembly.

The Mixed Member Proportional System (MMPS) actually combines the FPTP System with elements of Proportional Representation. Such a system could allow approximately twenty-one members to be elected from single member districts under the FPTP System. Every elector would have a vote for their District member as they do now and would continue to be represented by a District MLA. The remaining members, approximately ten, would be elected from the Party Lists. The electors would have a second vote for the party which the elector believes would provide the best government for the

Province. The more evenly divided the seats are between the FPTP Members and the List Members, the more proportional the results will be. Germany has a 50 - 50 split. New Zealand has a 55 - 45 percent split and Scotland has a 56 - 44 percent split. Some people suggest that a two-thirds, one-third split will provide a degree of proportionality, ensure a number of members in the opposition and will enable third parties to get elected. It would also make it easier for women to get elected as well. It is pointed out in the 1998 Lord Jenkins Report in England that studies done for the Commission show that a substantial degree of proportionality could be obtained for the country as a whole with a top-up of 15 - 20%.

Example

If one was to use the party vote for the 2003 Election and apply it to a 31 seat Legislative Assembly which was broken down with 21 FPTP Members and 10 List Members you might get something like the following:

Conservatives: 54% of 31 = 17 members
Liberals: 42.8% of 31 = 13 members
N.D.P.: 3.2% of 31 = 1 member

The N.D.P. only received 3.2% of the party vote which generally falls below the threshold for getting seats as it would likely be set at least 5% of the popular vote and perhaps even higher. This one seat would then be awarded to the Party with the most seats, that is the Conservatives. So the end result would be Conservatives 18 members, Liberals 13 members, for a total of 31 seats.

Now of the 21 district seats, suppose the Conservatives got 17 seats and the Liberals got 4 seats. This means the Conservatives would get one List Seat as they already received 17 seats from the FPTP side. So they have a total of 18 seats. The Liberals would

be entitled to 9 List Seats to bring them up to their total of 13 seats. Thus you have the total number of 31 members.

This example did not elect any N.D.P. members as they did not meet the threshold for getting List Members and they did not elect any FPTP members. However, many people feel the N.D.P. vote would increase under such a system and the party would probably meet the threshold if it is set somewhere between 5 and 10 percent, at perhaps 7 percent.

The List Members can be elected from across the Province as a whole or from Regions within the Province. Some electors may be more inclined to favour a Regional model for electing the List Members as the Regional electors would be assured of having List Members from their Region on the List. They would not have to worry about the fact that they might not have any List Members elected from their Region because of the ranking of the List Members on a Province wide list.

Example

Suppose one started with the four Federal Districts of Cardigan, Hillsborough (Charlottetown), Malpeque and Egmont as the four regions. The following Chart illustrates what the approximate number of electors would be for each of the four regions.

FEDERAL DISTRICT	2001 POPULATION	APPROXIMATE NO. OF ELECTORS	VARIANCE
Cardigan	34,777	25,735	2.82%
Hillsborough	32,245	23,861	- 4.6%
Egmont	35,208	26,054	4.09%
Malpeque	33,064	24,467	-2.25%

Each of the four regions could be divided into five Provincial Districts which would give twenty-single member districts across the Province. These twenty members would be elected by the FPTP System in the exact same manner as the present members of the Legislative Assembly are elected.

Then each party would nominate two or three candidates from each of the four regions to form one Province wide Party List. Each party would rank the eight or twelve candidates on its List or there could be a List of two or three Candidates for each one of the four regions. These List Candidates would be selected on the basis of the party vote in each one of the four regions and there would be List Members in the Legislative Assembly from each one of the four regions which may not necessarily be the case under one Province wide List of Candidates for each Party.

This regional system may not be as fair to third parties as it may be more difficult for a third party to meet four separate regional thresholds than it would be to just meet the one Province wide threshold.

One advantage of this kind of a regional model is that it allows the electors to use the exact same polls to vote in both the Provincial and Federal elections so the people know where to go to vote each time without any confusion. It is possible that a regional model may be more effective in providing a proper balance of representation between the rural and urban electors. The final result in a Proportional Representation System does reflect the electorates' opinion more accurately than is possible under other systems.

The Commission points out that The 1998 Report of the Independent Commission On The Voting System in England, commonly known as the Lord Jenkins Report, recommended a two-vote mixed system for electing members to the British House of Commons. It recommended that 80 - 85% of the members be elected in single member

districts by the Alternative Vote System. The remaining 15 - 20% of the members to be elected from a List. It recommended that the second vote be cast either for a party or for an individual candidate from the List. The vote for such a candidate would be counted as a Party vote. It should also be noted that Lord Alexander, one of the Commissioners, favoured the election of the 80 - 85% district members by FPTP instead of by the Alternative Vote System.

Some people argue very strongly that the Single Transferable Vote System (STV) could be an alternative system for Prince Edward Island, as well. This system is used in Ireland, Tasmania, for the Australian Senate and in Malta. All votes under this system are cast for candidates as there is no party vote. The electors have more choice under this system as they rank the candidates in order of preference on the ballot paper.

STV functions with multi-member districts and districts which elect five or more members produces nearly proportional results. It can perhaps be best explained if one uses the four Federal districts again. Suppose each one of the four Districts elects seven members to give a twenty-eight seat Legislative Assembly. Then each party would nominate seven candidates for each district. They would all compete against one another as well as against candidates from the other parties. Electors would receive a ballot paper which contains all the names of the candidates for the district in which the elector votes. There could be as many as twenty-one names on the ballot if each party nominated seven candidates for each District. The electors then rank the candidates in order of preference by placing a 1 beside their favorite candidate. They can continue to indicate their preferences by ranking as many candidates as they like by placing 2, 3, 4, etc. beside the candidate names on the ballot. The electors do not have to vote along party lines as they can vote for whatever candidates they prefer. The STV System, therefore, enables electors to choose among individual candidates instead of the party list or one party.

The preferences indicated on the ballot are then counted and the winners are elected by use of a mathematical formula. The counting of ballots is complicated and not fully understood by all the electors. It also takes more time to count the ballots than does the FPTP System.

Electors may argue that they do not have their district members as they do in the FPTP System. Critics answer this argument by saying, yes you do, you have seven district members to choose from whereas before you only had one district member. This link between a district member and the electorate is even closer if the district size is smaller. It could be possible to divide each one of the Federal districts into two districts each and each one of these districts could elect four members for a thirty-two seat Legislative Assembly. Or, if there were only three members for each district, you would have a twenty-four seat Legislative Assembly. It would also be possible to elect a twenty-eight seat Legislative Assembly by electing four members from one district and three members from the other district in each of the four Federal districts.

The counting of the ballots is more complicated than in the FPTP System. The total number of first preference votes for each candidate in a district is determined and a "quota" of votes required to elect a candidate is established. This quota is calculated by a formula:

$$\text{Quota} = \frac{\text{votes}}{\text{seats} + 1} + 1$$

The counting process is described in The International IDEA Handbook of Electoral System Design, at page 83, as follows:

> The first stage of the count is to ascertain the total number of first-preference votes for each candidate. Any candidate who has more first-preferences than the quota is immediately elected. If no one has achieved the quota, the candidate with the lowest

> number of first preferences is eliminated, with his or her second preferences being redistributed to the candidates left in the race. At the same time, the surplus votes of elected candidates (i.e., those votes above the quota) are redistributed according to the second preferences on the ballot papers. For fairness, all the candidates's ballot papers are redistributed, but each at a fractional percentage of one vote, so that the total redistributed vote equals the candidate's surplus (except in the Republic of Ireland, which uses a weighted sample). If a candidate has 100 votes, for example, and their surplus was 10 votes, then each ballot paper would be redistributed at the value of 1/10 of a vote. This process continues until all seats for the constituency are filled.

Some writers point out that the criticism made against this System have not proven to be of much importance in actual practice. Some people also see this System as avoiding any possible problems of having two classes of members as some people suggest is the case with the MMPS.

CHAPTER 10
CONCLUSIONS
AND
RECOMMENDATIONS

CONCLUSIONS

The 2003 Prince Edward Island Electoral Reform Commission believes that the best two Electoral Systems which might be considered as models for up-dating the present First Past The Post System would be either the Mixed Member Proportional System (MMPS) or the Single Transferable Vote System (STVS).

The Commission is of the further view that the system having the most likely chance of acceptance by the Island electorate as an alternative to the present First Past The Post System (FPTP) would be a Mixed Member Proportional System (MMPS) based on the system now in use in Germany, New Zealand, Scotland and Wales. Such a system would involve less change to the current electoral system as it would preserve the present relationship between the electorate and their local member more closely than a system based on the Single Transferrable Vote System would allow. Such a new system would provide election results which would respond better to the expectations and demands of today's electorate. It would also provide effective representation for the electorate of Prince Edward Island and allow each elector to play a meaningful role in the electoral process.

Some people expressed the view that this Commission does not have the legitimacy to recommend change as it did not hear the views from a sufficient number of Islanders. These people fail to appreciate and understand that some of the presentations made to the Commission represented the views of more than just one person.

The Canadian Union of Public Employees Prince Edward Island, which represents over 2,200 Islanders in various public sector occupations throughout the Province, presented a Brief urging the Commission to recommend that the Provincial Government introduce legislation establishing a system of proportional representation for future provincial elections.

The Prince Edward Island Federation of Labour presented a Brief supporting Proportional Representation as well. Their presentation stated that the fundamental reason why labour unions are in favour of Proportional Representation is because of fairness.

The Prince Edward Island Federation of Agriculture also presented a Brief. It represents the farming community on Prince Edward Island and it seeks assurances that regional and rural representation be included in any proposed system to ensure that all Islanders are adequately represented in the Legislative Assembly.

Perhaps the greatest benefit of the work of the Commission has been the fact that the idea of electoral reform is more prominent in the public domain now than it was at the start of the Commission's work. People are now more knowledgeable about their present First Past The Post Electoral System and are thinking more seriously about the whole aspect of electoral reform in greater numbers than they were before the Commission began its work. The general public must now decide whether they do, in fact, want change and, if they do, then they must also decide the nature of that change. This decision making process will have to take place by way of a referendum. The Historical Review in Chapter 2 clearly illustrates that it is not easy to implement change to the electoral system but it also illustrates that some change has to occur over time to keep the system responsive to the needs and expectations of the general public. The referendum should be publicly funded but conducted in a non-partisan fashion. There needs to be an educational component which allows both sides of the issue to be explored. Such a program will prepare electors for the decisions they will be

required to make in a referendum.

One way to meet these objectives would be to establish an independent commission comprised of representatives from all political parties and the general public. Their mandate would be to oversee the education program and the referendum as well as designing the question or questions for the referendum. The vote during the referendum would be determinative of the issue and would bind the government of the day to act in accordance with the decision reached on the referendum.

RECOMMENDATIONS

The 2003 Electoral Reform Commission presents the following recommendations for consideration:

Chapter 1

1. More public meetings are needed to obtain a better reading as to what the general public really wants in the way of reform to the present First Past The Post (FPTP) Electoral System.

2. The public meeting should be preceded by a mail out to all Island households of a pamphlet containing information about the features of the FPTP Electoral System and about the other two systems which might be used as a model for reform.

Chapter 2

1. The history lessons from the past electoral reform initiatives need to be studied and used as references for future changes.

Chapter 3

1. The aspirations of Island women need to be considered very carefully in the design and implementation of any modifications to the present FPTP system to ensure that changes will occur which will result in increased representation for women in the Legislative Assembly of Prince Edward Island.

2. Discussions need to be held with the Aboriginal people to determine their desires about having their own representative in the Legislative Assembly of the Province.

3. The Aboriginals who live off the Reserves should be allowed to determine whether they prefer to vote for their local district M.L.A. or whether they prefer to vote for an Aboriginal representative.

Chapter 4

1. A small educational pamphlet should be prepared for mail out purposes which explains the features of the FPTP system and the other relevant systems.

Chapter 5

1. The guiding principles established by recent Court decisions involving the interpretation of section 3 of the Charter must be applied when re-drawing electoral boundaries.

Chapter 6

1. The Electoral Boundaries Act, R.S.P.E.I. 1988, Cap. E-2.1 needs to be amended to provide:

a. an Electoral Boundaries Commission with the proper scope and authority to perform its task in accordance with Canadian jurisprudence;

b. a clear indication as to what must happen to the Report of the Electoral Boundaries Commission after it has been submitted to the Speaker of the Legislative Assembly;

c. clear and proper instructions as to how the Province is to be divided into electoral districts without regard for County boundaries;

d. a clear indication that redistribution must be based on relative parity of voting power as the first condition of effective representation; and

e. a realistic deviation quotient somewhere in the vicinity of ± 15%.

2. The Election Act, R.S.P.E.I. 1988, Cap. E-1.1 should be amended to provide:

a. a fixed date for provincial elections or a very narrow window be selected during which an election may be called;

b. a three month window between a provincial election and a municipal election;

c. more time to perform a general confirmation of electors; and

d. authority for the Chief Electoral Officer to postpone the ordinary polling day and authority to adjust the hours the polls are open on ordinary polling days.

Chapter 7

1. Technology should be used to enable Elections Prince Edward Island, in co-operation with Elections Canada, to maintain an up-to-date Register of Electors from year to year.

Chapter 8

1. A Prince Edward Island version of British Columbia's Citizens Assembly be used in this province to formulate a question for a referendum in this province.

2. A clear and concise question be formulated for the referendum.

3. The referendum be held at a time other than during a provincial election.

Chapter 9

1. The present First Past The Post (FPTP) Electoral System be modified to provide an element of proportionality by electing a certain number of the members of the Legislative Assembly (perhaps 21) by the FPTP System and by electing a certain number of the members of the Legislative Assembly (perhaps 10) by the List System so as to provide a Mixed Member Proportional System along the lines of the New Zealand model.

APPENDIX A

SUBMISSIONS

WRITTEN SUBMISSIONS

1. Acadian Communities Advisory Committee
2. Advisory Council on the Status of Women
3. Anonymous
4. Assembly of Evangeline Communities – Gilles Painchaud
5. Harry Baglole
6. John Barrett
7. Lily Binns
8. David M. Bulger
9. Canadian Union of Public Employees of Prince Edward Island
10. City of Charlottetown
11. Dr. Thomas Connor
12. Wilfred Day
13. Kais Deelstra
14. G. D. Dennis
15. Dr. Herb Dickieson
16. District 25 P.C. Party
17. Every Vote Counts

18. Fair Voting B.C.

19. Federation of P.E.I. Municipalities

20. Hilda Gossi

21. Alan Holman, Jr.

22. Nick Loenen

23. Wade H. MacLauchlan

24. Eugene MacDonald

25. Philip MacDonald

26. David E. MacLeod

27. Scott MacLeod

28. New Democratic Party

29. Edith Perry

30. P.E.I. Association of Women Acadians and Francophones

31. P.E.I. Federation of Agriculture

32. Sasson Sanei

33. Alan Scariff

34. Andrea Mae Simpson

35. Jeremy Stiles, Malpeque Green Party of Canada Riding Association

36. Ronald Walsh

ORAL SUBMISSIONS

1. Ken Anderson
2. Edgar Arsenault
3. Robert Arsenault, Acadian Communities Advisory Committee
4. Wilfred Arsenault, M.L.A.
5. Harry Baglole
6. Jim Bagnall, M.L.A.
7. Nick Borogina, N.D.P. Youth
8. Mary Boyd
9. Leo Broderick, Council of Canadians
10. J'Nan Brown, Fair Vote Canada
11. Stanley Campbell and Mitch Tweel, P.E.I. Federation of Municipalities
12. Leo Cheverie, P.E.I. Federation of Labour
13. Colonel Gray, P.E.I. History Class
14. Kais Deelstra
15. Dr. George Dewar
16. Dr. Herb Dickieson
17. Cletus Dunn, M.L.A.
18. Dr. Peter Hay, Tasmania, Australia
19. Patricia MacAulay, P.E.I. Status of Women

20. Donalda MacDonald, C.U.P.E.

21. Wilbur MacDonald, M.L.A.

22. Robert MacKenzie

23. Matt McGuire

24. Honourable George Mullally

25. Ryan O'Connor

26. Reg Pendergast

27. Edith Perry

28. Gary Robichaud

29. Eva Rodgerson, M.L.A.

30. Jeremy Stiles, Malpeque Green Party of Canada Riding Association

31. Lizanne Thorne, St. Thomas Acquinas Society

32. Andrew Wells

APPENDIX B

P.E.I. INDIVIDUALS INTERVIEWED

1. Wilfred Arsenault, M.L.A.
2. Harry Baglole
3. Leone Bagnall
4. Chief Darlene Bernard
5. Kirk Brown
6. Dr. Thomas Connor
7. Lowell Croken, Deputy Chief Electoral Officer
8. Dr. Herb Dickieson
9. Speaker Mildred Dover, Speaker of the Legislative Assembly
10. Albert Fogarty
11. Peter Ghiz
12. Honourable Robert Ghiz, Leader of the Opposition
13. Chief Roderick Gould
14. Alan Holman, Jr.
15. Jeannie Lea
16. Ron MacKinley, M.L.A.
17. Honourable David MacDonald
18. Dr. Edward MacDonald

19. Charles MacKay, Clerk of the Legislative Assembly

20. President Wade H. MacLauchlan, University of Prince Edward Island

21. Rob MacLean

22. Scott MacLeod

23. Honourable Pat Mella

24. Honourable George Mullally

25. Honourable Mitchell Murphy

26. Ryan O'Connor

27. Dr. Richard E. Price

28. Gary Robichaud

29. Merrill Wigginton, Chief Electoral Officer

GROUP PRESENTATIONS

1. Acadian and Francophone Affairs

   Jean Paul Arsenault, Robert Arsenault, Dominique Chouinard, Jim Nimico, Donald DesRoches

2. Every Vote Counts

   Kirk Brown, Jeannie Lea, Rob MacLean

3. Government Caucus

INDIVIDUALS FROM OUTSIDE PRINCE EDWARD ISLAND

1. Dr. Doris Anderson
   Toronto, Ontario
   Chairperson, Fair Vote Canada

2. Dr. Godfrey Baldacchino
   Malta
   Canada Research Chair in Island Studies
   University of Prince Edward Island

3. Claude Beland
   Montreal, Quebec
   Chairperson of the Quebec Steering Committee of the Estates General on the Reform of Democratic Institutions.

4. Honourable Patrick Boyer
   Toronto, Ontario, who spoke at the Final Public Meeting of the Commission in November, 2003.

5. Dr. Helena Catt
   Professor at the University of Auckland, Auckland, New Zealand, who gave a public lecture at the University of Prince Edward Island in June, 2003.

6. J. Andrew Cousins
   Halifax, Nova Scotia
   He wrote the discussion paper Electoral Reform for Prince Edward Island in 2000.

7. Dr. John E. Crossley
   Principal and Vice Chancellor
   Renison College
   University of Waterloo
   Waterloo, Ontario

8. Gordon Gibson
   Vancouver, British Columbia, who designed the Citizen's Assembly on Electoral Reform for British Columbia.

9. Dr. Peter Hay
   Tasmania, Australia
   Professor at the University of Tasmania, who spoke at the public meetings in Charlottetown and Summerside.

10. Nick Loenen
Richmond, British Columbia
Author of Citizenship and Democracy and Co-founder and Director of Fair Voting British Columbia.

11. Professor Henry Milner
Montreal, Quebec
Professor of Political Science at Vanier College. He gave a public lecture at the University of Prince Edward Island in June 2003.

12. Callum MacLean
Isle of Skye, Scotland
He was a list candidate in the 1999 election in Scotland and visited Prince Edward Island in March, 2003.

13. Harry Swadling
New Zealand
He visited Canada in 2003 on a Rotary Exchange Visit.

14. Paul Wadsworth
New Zealand
He visited Canada in 2003 on a Rotary Exchange Visit.

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